

**MISSOURI DEPARTMENT OF NATURAL RESOURCES**

**DIVISION OF ENVIRONMENTAL QUALITY**

**INSPECTION AND ENFORCEMENT MANUAL**

**Land Reclamation Program**

**June 30, 1998**



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## **INTRODUCTION TO THE INSPECTION AND ENFORCEMENT MANUAL**

### **USE**

This manual has been prepared as a tool of the Missouri Department of Natural Resources, Land Reclamation Program. Uses for this manual include:

- An inspection and enforcement reference guide for inspectors;
- An inspection and enforcement training document for new employees; or,
- An educational document for persons not familiar with the Land Reclamation Program's inspection and enforcement procedures.

### **ORGANIZATION**

This manual consists of three major components. GENERAL contains Chapters I and II. These chapters apply to the program as a whole. INDUSTRIAL MINERALS, COAL and METALLIC MINERALS are the remaining manual divisions. Each of these sections contains Chapters III through IX. Page numbers will be depicted as 3.1 IM, 3.1 Coal or 3.1 MM respectively. This occurs because the Land Reclamation Program regulates these industries under separate laws and regulations.

## **I. INTRODUCTION**

### **A. STATEMENT OF PURPOSE**

The purpose of the Land Reclamation Program is to:

1. Provide such regulation and control of surface mining as to minimize or prevent detrimental effects on the people and resources of the state;
2. Assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations;
3. Assure that surface mining operations are not conducted where reclamation is not feasible;
4. Assure that surface mining operations are so conducted as to protect the environment;
5. Assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations;
6. Assure that the coal supply, essential to the state's energy requirements and to its economic and social well-being, is provided; and strike a balance between protection of the environment and agricultural productivity and the need for coal as an essential source of energy; and,
7. Assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans or programs, as provided by the laws and regulations governing each type of mining.

### **B. NARRATIVE DESCRIPTION RELATING CONTENTS OF THIS INSPECTION AND ENFORCEMENT MANUAL VOLUME TO THE PROGRAM PURPOSE**

The following sections of this Inspection and Enforcement volume describe how the Land Reclamation Program will meet the goals described in the previous subsection.

### **C. STATEMENT OF PROGRAM GOALS REGARDING INSPECTION AND ENFORCEMENT**

The inspection and enforcement goals are:

- To conduct all required inspections to monitor compliance;

- To issue necessary enforcement actions to non-compliance permittees in order to achieve a state of compliance;
- To conduct penalty assessments for each enforcement action issued, and collect such assessments;
- To investigate all complaints received;
- To provide review of and recommendations for disposal of permit revisions requested after permit issuance;
- To respond to OSMRE oversight concerning coal mining; and,
- To provide limited assistance to permittees in order to strike a balance between protecting the environment and promoting development and use of the commodities mined.

#### D. DEFINITION AND DESCRIPTION OF TERMS

Class 1 inspection: An aerial inspection of the permitted site.

Class 2 inspection: A partial inspection where an on-site review of a permittee's compliance with some of the permit conditions, regulations, or the law is conducted on part or all of the inspectable unit.

Class 3 inspection: A complete inspection where an on-site review of a permittee's compliance with all permit conditions, regulations, and the law is conducted on the entire inspectable unit.

Class 4 inspection: Not applicable.

Enforcement: Action taken to compel compliance with applicable laws, regulations or permit conditions, or to punish non-compliance.

Compliance: Being or acting in accordance with laws, regulations, or permit conditions.

Inspectable Unit: A surface mining and reclamation or exploration operation for which an inspection obligation exists. Although most inspectable units consist of a single permit, some inspectable units may be a consolidation of several contiguous permits into a single inspectable unit, or a dissection of extremely large permits.

Inspection: A careful and critical field evaluation of a facility or site to determine the status of compliance with applicable laws, regulations, or permit conditions.

Surveillance: A brief visit or field observation to determine the condition of a facility, site, or component thereof.

Notice of Violation (NOV): A written communication, utilizing a form developed for the purpose, conveyed in person or via certified mail informing a permittee of a violation of environmental law, regulation, or permit condition, which may direct the permittee to initiate corrective actions within a specified period of time.

Notice of Delinquent Reclamation (NODR): A written communication, utilizing a form developed for the purpose, conveyed in person or via certified mail informing a permittee of a violation of reclamation (top soiling and revegetation) time frames which may direct the permittee to initiate corrective actions within a specified period of time.

Cessation Order: A written communication, utilizing a form developed for the purpose, conveyed in person or via certified mail, informing a permittee that he or she has failed to abate a previously issued NOV or NODR, or that a violation currently exists which constitutes a condition or practice that creates imminent danger to the health or safety of the public or is causing or can cause significant, imminent environmental harm to land, air or water resources, and which may direct the permittee to initiate corrective actions within a specified time frame.

Show Cause Order: A written communication conveyed in person or by other approved means requiring a permittee to show cause why his/her permit and right to mine under the regulatory program should not be suspended or revoked. Causes for permit suspension or revocation are identified in 10 CSR 40-7.031.

Alternative Enforcement: Enforcement actions such as injunctions, individual civil penalties, or criminal actions pursued through the State Attorney General's Office against a permittee, owner, or controller; or a show cause order issued by the program director.



## **II. ORGANIZATION OF PROGRAM**

### **A. PROGRAM COMPONENTS**

Section: Inspection and Enforcement  
Units: Coal, Industrial Minerals, Metallic Minerals

### **B. PROGRAM COMPONENTS DESCRIPTION OF FUNCTIONS**

Inspection and Enforcement (I & E)

1. Provide such regulation and control of surface mining as to minimize or prevent its injurious effects on the people and resources of the state;
2. Assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations;
3. Assure that surface mining operations are not conducted where reclamation is not feasible;
4. Assure that surface mining operations are so conducted as to protect the environment;
5. Assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations;
6. Assure that the coal supply essential to the state's energy requirements and its economic and social well-being is provided and to strike a balance between protection of the environment and agricultural productivity and the need for coal as an essential source of energy;
7. Assure that appropriate procedures are provided for public participation in the development, revision, and enforcement of regulations, standards, reclamation plans or programs.

#### **a. Coal Unit functions:**

1. Inspection;
2. Enforcement;
3. Administrative penalty assessment;
4. Complaint resolution;
5. Permit review responsibilities (compliance review);
6. Respond to Office of Surface Mining Oversight;
7. Regulation Development;
8. Applicant Violator System Update.

b. Industrial Minerals Unit functions:

1. Administrative Penalty Assessment;
2. Inspection;
3. Enforcement;
4. Complaint Investigation;
5. Bond Release;
6. Permit Review (Compliance).

c. Metallic Minerals Unit Functions:

1. Inspection;
2. Enforcement;
3. Administrative Penalty Assessment;
4. Complaint Investigation;
5. Bond Release;
6. Program Coordination;
7. Permit Review and Issuance.

C. ORGANIZATION CHART

SEE APPENDIX ITEM J

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  - 10 CSR 40-2.050 Topsoil handling.
  - 10 CSR 40-2.060 Protection of the hydrologic system by water quality standards and effluent limitations.
  - 10 CSR 40-2.070. Dams constructed of or impounding waste material.

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- 10 CSR 40-3.040 Requirements for protection of the hydrologic balance.
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- 10 CSR 40-3.060 Requirements for the disposal of excess spoil.
- 10 CSR 40-3.070 Requirements for the protection of underground mining.
- 10 CSR 40-3.080 Requirements for the disposal of coal processing waste.
- 10 CSR 40-3.090 Requirements for the protection of air resources.
- 10 CSR 40-3.100 Requirements for the protection of fish, wildlife and related environmental values and protection against slides and other damage.
- 10 CSR 40-3.110 Backfilling and grading requirements.
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- 10 CSR 40-8.070. Applicability and general requirements.

B. SUMMARY OF LEGAL PROVISIONS SPECIFICALLY RELATED TO INSPECTION AND ENFORCEMENT

1. Strip Mine Law

- 444.670 Authorizes Commission representatives to inspect and search strip mined lands, describes procedures for obtaining a search warrant.
- 444.680 Describes procedure for obtaining injunctions and civil penalties for unpermitted operations, and that used for violations at permitted operations to compel compliance, along with enforcement procedure inclusive of notification to the operator and formal hearing as well as permit revocation procedures.
- 444.690 Describes the procedure for taking testimony at hearing, how recorded, when available.
- 444.700 Allows for judicial review of all formal decisions or orders.
- 444.710 Authorizes the Attorney General's Office to act at the request of the Commission to obtain injunctions and forfeiture of bond.

2. Surface Coal Mining Law

- 444.800.4 Directs the commission to rigidly enforce the laws and regulations.
- 444.805 (6) Defines "imminent danger to the health and safety of the public". In doing so, it describes the criteria which is to be used to determine if an imminent harm Cessation Order is warranted.
- 444.805 (18) Defines "unwarranted failure to comply" which is criteria utilized for determining if a "show cause" order is warranted.
- 444.865.2 "Authorized representatives of the commission without advance notice and upon presentation of appropriate credentials:

1. Shall have the right of entry to, upon or through any surface coal mining and reclamation operation . . .; and,
  2. May at reasonable times, and without delay, have access to and copy any records and inspect any monitoring equipment LRP or method of operation."
  - 444.865.3 Requires that inspections:
    1. Occur on an irregular basis averaging not less than one partial (Class 2) per month and one complete (Class 3) per calendar quarter for each permit;
    2. Occur without prior notice except for necessary onsite meetings;
    3. Include the filing of inspector's reports adequate to enforce the law.
  - 444.865.6 Requires each inspector upon detection of any violations, to inform the operator in writing and report in writing any such violation to the commission.
  - 444.870 Describes the procedures for assessing civil penalties for violations and cessation orders. It also addresses criminal proceedings.
  - 444.880 Describes actions to compel compliance, limitation costs of litigation, and actions for damages.
  - 444.885 Describes Cessation Orders, suspension or revocation of permits, and injunctive relief.
  - 444.895 Describes the review of Cessation Orders and permit suspensions and revocations, procedure, temporary relief, and hearings conduct.
  - 444.900 Describes judicial review.
  - 444.970 Describes the penalty assessment for delinquency or failure to comply with assessment or reclamation plan.
3. Regulations
- a. 10 CSR 40-7.031 Describes procedures and criteria for permit revocation and bond forfeiture.
  - b. 10 CSR 40-8.030 Describes Permanent Program inspection and enforcement which includes:
    1. Inspection frequency minimum - one partial inspection per month and one complete inspection per quarter;
    2. Rights of entry;
    3. Availability of records;
    4. Public participation;
    5. Citizen suits;
    6. Enforcement of Cessation Orders;
    7. Enforcement of Notices of Violation;

8. Revocation of permits;
  9. Services of Notices of Violations and Cessation Orders;
  10. Formal review of citations;
  11. Failure to give notice and lack of information;
  12. Inability to comply;
  13. Injunctive relief;
  14. Rules of discovery;
  15. Intervention;
  16. Petitions for award of costs and expenses;
  17. Informal public hearings;
  18. Delinquency in reclamation.
- c. 10 CSR 40-8.040 Concerns penalty assessments and describes:
1. How assessments are made;
  2. When a penalty will be assessed;
  3. The point system for calculating penalties;
  4. How the amount of the penalty is determined;
  5. Assessments of separate violations for each day;
  6. Waiver of use of the formula to determine civil penalties;
  7. Procedures for assessment of civil penalties;
  8. Procedures for informal assessment conferences.
- d. 10 CSR 40-8.045 concerns individual and civil penalties to directors, officer or agents of a corporation.

C. CONFIDENTIALITY ISSUES, REQUIREMENTS AND AUTHORITIES

1. 444.820.3 Regarding coal mining permit application contents states that "Information pertaining to coal seams, test borings, core samples, or soil samples as required by this section shall be made available to any person with an interest which is or may be adversely affected; provided that information which pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental content which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record."
2. 444.825.1.(12) Regarding reclamation plan contents states that "The results of test borings which the applicant has made at the area to be covered by the permit, or other equivalent information and data in a form satisfactory to the commission, including the location of subsurface water, and an analysis of the chemical properties including acid forming properties of the mineral and overburden; provided, that information which pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental contents which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record."
3. 444.825.2 Regarding reclamation plan contents states that "Any information required by this section which is not on public file pursuant to this law shall be held in confidence by the commission."
4. 444.845.2 Regarding coal exploration permit contents states that "Information submitted pursuant to this subsection as confidential concerning trade secrets or privileged commercial or financial information which relates to the competitive rights of the person or entity intended to explore the described area shall not be available for public examination."
5. Regulations at 10 CSR 40-6.020(6) regarding the public availability of permit applications on file with the commission or director state:
  - A. Except as provided in subsection (6)(B) of this rule, all information submitted to the director or Commission under this section shall be made available for public inspection and copying.
  - B. The director or Commission shall keep information confidential if the person submitting it requests, in writing at the time of submission, or is privileged commercial or financial information relating to competitive rights of the person intending to conduct coal exploration.

- C. Information requested to be held as confidential under subsection (6)(B) shall not be made publicly available until after notice and opportunity to be heard is afforded persons both seeking and opposing disclosure of the information.
- 6. Regulations at 10 CSR 40-8.030(4)(A)2 regarding citizen's request for inspection states "The identity of any person supplying information relating to a possible violation shall remain confidential, if requested by that person, unless that person elects to accompany the inspector on the inspection, or unless disclosures are required under any law."

#### **IV. INSPECTIONS**

##### **A. STATEMENT OF PURPOSE OF INSPECTION AND EXPECTATIONS OF THE PROGRAM REGARDING THE INSPECTION ACTIVITY**

The inspector's major responsibility is to monitor the compliance of the permittee. Though it is the permittee's responsibility to ensure compliance, it is the inspector's responsibility to monitor the permittee's progress in mining via inspections, point out potential problems which may lead to a non-compliance condition, issue the appropriate enforcement actions during or after the inspection, and follow the abatement of issued enforcement actions following inspections.

##### **B. LISTING AND DISCUSSION OF THE VARIOUS INSPECTION ACTIVITIES BY CLASS 1, 2, 3, AND 4**

Class 1: This type of inspection is an aerial inspection. An aerial inspection shall be conducted in a manner which reasonably ensures the identification and documentation of conditions at each surface coal mining and reclamation site inspected, and shall be counted as a partial inspection. Any potential violation observed during an aerial inspection shall be investigated on-site within three (3) days provided that any indication of a condition, practice, or violation constituting cause for the issuance of a cessation order because of suspected imminent danger to the public or imminent environmental harm to air, land or water resources shall be investigated on-site immediately. Although not mandatory, aerial inspections are targeted to be scheduled no more than quarterly but no less than twice per year.

Class 2: This type of inspection is called a partial inspection. A partial inspection is an on-site or aerial review of a permittee's compliance with some of the permit conditions, regulations, performance standards, or law. A partial inspection shall be conducted on each inspectable unit at all active surface coal mining and reclamation operations with a minimum frequency of twice per calendar quarter.

Class 3: This type of inspection is called a complete inspection. A complete inspection is an on-site review of a permittee's compliance with all permit conditions, regulations, performance standards, and the law. The inspection shall be conducted on the entire inspectable unit of the surface coal mining and reclamation operation. The inspector must conduct a complete inspection on each inspectable unit of all active and inactive operations each calendar quarter.

Class 4: Not applicable.

C. DISCUSSION OF SAMPLING EXPECTATIONS IN RELATION TO CLASS 1, 2, 3, AND 4 INSPECTIONS

Class 1: The inspector should obtain a general overview of the whole mining operation during the aerial inspection. A determination should be made as to whether the permittee is following its overall operations and reclamation plan. The inspector should look for any imminent danger to the environment or the public. It should be ascertained as to whether the area disturbed is permitted or not.

Class 2: The inspector should present his or her credentials and, if possible, have a brief meeting with the permittee prior to inspecting. The inspector should sample some of the performance standards on each inspectable unit being inspected. The inspector should sample surface water out falls as deemed necessary. All violations should be documented and the appropriate evidence collected. A close-out meeting should be held with the operators, if possible and deemed necessary.

Class 3: The inspector should present his or her credentials and, if possible, have a brief meeting with the permittee prior to inspecting. The inspector should review all blasting, NPDES, and other pertinent records. All performance standards should be checked on the entire inspectable unit. All NPDES out falls should be sampled. All violations should be documented and the appropriate evidence collected. A close-out meeting should be held with the permittee, if possible and deemed necessary.

Class 4: Not applicable.

D. DETAILED DESCRIPTION OF THE MINIMUM CONTENTS OF CLASS 1, 2, 3, AND 4 INSPECTION REPORTS

Class 1: An inspection report shall be prepared for each mine site observed. The inspection report cover sheet should denote the following information:

1. The company inspected;
2. The mine inspected;
3. The inspection date;
4. The last inspection date;
5. Weather conditions;
6. Date the report was prepared;

7. The inspectable units observed;
8. The type (aerial = A) of inspection;
9. The performance standards checked;
10. The name and signature of the inspector conducting the inspection.

Typically, representatives from the Office of Surface Mining or from the company, will not be present and should be entered as “N/A” on the report cover sheet. Any problems or non-compliances noted from the air should be described in the narrative of the report.

Class 2: An inspection report shall be prepared for each mine site observed. The inspection report cover sheet shall denote the following information:

1. The company inspected;
2. The mine inspected;
3. The inspection date;
4. The last inspection date;
5. Company representatives attending;
6. Office of Surface Mining representatives attending;
7. Weather conditions;
8. Date the report was prepared;
9. The inspectable units observed;
10. The type (Partial = P) of inspection;
11. The performance standards checked;
12. Any enforcement actions taken as a result of the inspection including:
  - a. Performance standards violated; and,
  - b. Abatement due dates.
13. The name and signature of the inspector conducting the inspection.

The narrative should detail all observations of significance, enforcement action descriptions and supporting evidence, mining progress, reclamation progress, sampling conducted, and any other noteworthy items. Maps must be prepared and included, as necessary, to illustrate specific items described in the narrative.

Class 3: An inspection report shall be prepared for each mine site observed. The inspection report cover sheet shall denote the following information:

1. The company inspected;
2. The mine inspected;
3. The inspection date;
4. The last inspection date;
5. Company representatives attending;
6. Office of Surface Mining representatives attending;
7. Weather conditions;



8. Date the report was prepared;
9. The inspectable units observed;
10. The type (Complete = C) of inspection;
11. The performance standards checked;
12. Any enforcement actions taken as a result of the inspection including:
  - a. Performance standards violated; and,
  - b. Abatement due dates.
13. The name and signature of the inspector conducting the inspection.

The narrative should describe all records examined, observations of significance, enforcement action descriptions and supporting evidence, mining progress, reclamation progress, sampling conducted, and any other noteworthy items. Maps must be prepared and included, as necessary, to illustrate specific items described in the narrative.

Class 4: Not applicable.

#### E. INSPECTION PROCEDURES, INCLUDING SAFETY CONSIDERATIONS

Upon arrival, the first action the inspector takes is to present his or her credentials to an appropriate person at the mine site. The inspector should then announce the purpose of the visit. The possible exceptions to this approach, depending on regulatory policies, are if there is no representative on site, or if the inspector notes a violation en route to the place of credential presentation. If no one is on site, then the inspector proceeds with the inspection. If a violation is noted en route to the office, then the inspector has the right to document the violation.

An inspector is guaranteed access to a site to conduct an inspection by the law and regulations he or she enforces. If an inspector is denied access, he or she should notify his or her supervisor, or follow standard operating policies that the regulatory authority has in place. In either case, the inspector may eventually take some enforcement action for failure on the part of the operator, to allow access.

In performing his or her duties, the inspector is also responsible to understand safety hazards on a typical mining site. Some of the typical hazards are electrical wiring, high walls, heavy equipment, spoil banks, water hazards, and explosives. Prior to an inspection, the inspector should ensure that he or she has the proper safety equipment available for the inspection. Normal equipment includes a hard hat, safety glasses, steel-toed shoes, and the proper clothing. The inspector should also attend a safety and hazard training course to fully understand all potential safety problems on a mining site.

F. INSPECTION FORMS AND REPORTS

All reports are expected to be completed and mailed to the permittee within ten working days of the inspector leaving the site of the inspection. The signature required is that of the inspector conducting the inspection. Review is not required after an inspector has completed the initial training phase.

G. PROCEDURES FOR TECHNICAL PROGRAM REVIEW AND COMMENT ON INSPECTION REPORTS

Not applicable.

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## **V. SURVEILLANCE**

Not Applicable.

## **VI. CONFERENCE, CONCILIATION, AND PERSUASION**

### **A. DESCRIPTION OF THE CONCEPT, STATEMENT OF PURPOSE, AND THE PROGRAM'S EXPECTATIONS**

The concept of conference, conciliation, and persuasion as an enforcement tool is not applicable to the Permanent Program Law (i.e., RSMO 444.800 through 444.970), and the Missouri Code of State Regulations, (Division 40, Chapters 3 through 8). These are laws and regulations enacted on or after May 18, 1982. Per RSMo 444.870 and 10 CSR 40-8.030(7)(A), an authorized representative of the commission shall issue a Notice of Violation if he finds a violation of the regulatory program which does not create an imminent danger or harm for which a Cessation Order must be issued under 10 CSR 40-8.030(6). The Old Law and the Interim Law and regulations do not contain this specific requirement to issue formal enforcement actions for violations of the regulatory program, therefore allowing the use of conference, conciliation, and persuasion as an enforcement tool.

Conference, conciliation, and persuasion is an enforcement tool used during the Old Law period - March 28, 1972, through May 2, 1978 (i.e., RSMO 444.500 through 444.755) and the Interim Law period - May 3, 1978, through May 17, 1982 (adds RSMo 444.535). This involves administrative efforts on the part of the Land Reclamation Program to convince a permittee operating under the Old and Interim Law to take the necessary steps to abate or remedy a violation of the law. The purpose of conference, conciliation, and persuasion is to avoid taking formal enforcement actions against an operator while still arriving at a reasonable solution to a violation of the law that is acceptable to the Department of Natural Resources, the Land Reclamation Commission, and the permittee. Expectations are that an acceptable solution will be arrived at within a reasonable period of time or formal enforcement action will be pursued.

### **B. VARIOUS ACTIVITIES WHICH CONSTITUTE CONFERENCE, CONCILIATION, AND PERSUASION**

1. On site discussions during normal inspections between the permittee and the inspector.
2. Written communication to the permittee through normal inspection reports.

3. Meetings or conferences between the permittee, owner(s), operator(s), and/or other responsible parties and the regulatory authority.
4. Technical assistance to the permittee from the regulatory authority.
5. Written communication from the Land Reclamation Commission and/or the State Attorney General's Office.

C. RECORD KEEPING REGARDING THE USE OF CONFERENCE, CONCILIATION AND PERSUASION

Records should include but should not be limited to: field notes, inspection reports, telephone records, correspondence between the regulatory authority and the permittee, and records of communications between the commission and the State Attorney General's Office. The records should be placed in the permittee's files.

D. FORMAL POLICIES REGARDING CONFERENCE, CONCILIATION, AND PERSUASION

Because of the limited applicability of conference, conciliation, and persuasion to Coal Inspection and Enforcement, formal policies regarding when conference, conciliation, and persuasion shall cease and formal enforcement action shall begin have not been developed.

## **VII. ENFORCEMENT**

### **A. STATEMENT OF PURPOSE AND EXPECTATIONS OF THE PROGRAM REGARDING THE ENFORCEMENT ACTIVITY**

The overall program mandate is to issue the appropriate enforcement action for each and every non-compliance documented during the course of an inspection. Operators are required to achieve 100% compliance within the time frames listed by any enforcement actions issued.

### **B. ENFORCEMENT PROCEDURES**

#### **1. Issuance Criteria**

- a. Whom: Any authorized representative of the Land Reclamation Commission that has undergone proper training and been deemed qualified by the Chief, Inspection and Enforcement Section.
- b. What: Any NOV or NODR can be issued by any inspector that has met the qualifications stated above. All Cessation Orders for failure to abate a Notice of Violation must be issued by the program director or the Chief, Inspection and Enforcement Section. Any authorized representative of the Land Reclamation Commission shall issue Cessation Orders for imminent danger to the health or safety of the public or imminent environmental harm. All other enforcement actions are issued by the Land Reclamation Commission.
- c. When: Whenever a non-compliance is seen, a Notice of Violation shall be issued. Whenever an NOV is not abated or imminent harm to public or environment is noted, a Cessation Order shall be issued. Whenever top soiling or revegetation regulatory time frames are not achieved, a Notice of Delinquent Reclamation shall be issued.
- d. Where: Service can be tendered to the operator's business address, to a registered agent for the company, or to any authorized company representative at the mine site.

- e. Why: The law and regulations dictate the issuance of enforcement actions on each and every violation of the law or regulations or terms of the permit.
  - f. How: Issuance can be completed by hand or by certified mail for all enforcement actions.
  - g. To Whom: All enforcement actions are issued to the permittee, and can be accepted by any authorized representative or registered agent of the company.
2. Enforcement Action Request Procedures: Not applicable.
3. Administrative Enforcement Activities.
- a. Notice of Violation (NOV): In most situations, the primary enforcement tool is the Notice of Violation. A Notice of Violation is required to be issued whenever there is: A violation of the law, regulations, or the permit; no existing enforcement actions which address the same violation; and imminent danger or harm to the environment or public does not exist. The Notice of Violation must be issued in writing and signed by the inspector. The following information shall be included:
    - The nature of the violation;
    - The law(s), regulation(s), or permit term(s) violated;
    - The remedial action required, including any interim steps;
    - The times for abatement, which may include times for abatement of interim steps;
    - A description of the portion of the mine or area to which the Notice of Violation applies; and,
    - A map clearly indicating the location of the violation (unless administrative in nature).The inspector should ensure that all parts are clearly and concisely written. See Appendix T.
  - b. Notice of Delinquent Reclamation (NODR): A Notice of Delinquent Reclamation is required to be issued whenever topsoil is not replaced within 270 days of the completion of rough backfilling and grading; permanent cover of vegetation sufficient to control erosion is not in place within two years of completion of initial seeding; or when the reclaimed land does not qualify for a phase II bond release, and the request for release is not submitted within four years of the completion of initial seeding. The Notice of Delinquent Reclamation must be issued in writing and signed by the inspector. The following information shall be included:

- The nature of the delinquency;
- The law(s), regulation(s), or permit term(s) violated;
- A description of the portion of the mine or area to which the NODR applies;
- A map clearly indicating the location of the violation;
- The time(s) for abatement; and
- The remedial action(s) required.

The inspector should ensure that all parts are clearly and concisely written.

- c. Cessation Order: If an inspector discovers a violation of the law, regulations, or permit that has not been previously addressed, which creates an imminent danger to the health or safety of the public or is causing or can reasonably be expected to cause significant, imminent, environmental harm to land, air, or water resources, a Cessation Order is required to be issued by an authorized representative of the Land Reclamation Commission. A Cessation Order must be issued in writing, signed by the authorized representative. The following items shall be included:

- The nature of the violation;
- The law(s), regulation(s), or permit term(s) violated;
- The remedial or affirmative action required and interim steps if needed;
- The times for abatement, which may include times for abatement of interim steps;
- A description of the portion of the mine or area to which LRP the Cessation Order applies; and,
- A map clearly indicating the location of the violation.

The inspector should ensure that all parts are clearly and concisely written.

Additionally, a Cessation Order must include the activity, operation, or area that is being ceased, and the grounds for cessation.



Another type of Cessation Order is a failure to abate Cessation Order (FTACO). An FTACO is issued if the inspector discovers that a Notice of Violation issued at a previous inspection has not been abated within the required time frames. An FTACO requires the same information as a Cessation Order. This is provided by attaching a copy of the unabated Notice of Violation. An FTACO must be signed by the director.

- d. **Revocation and Forfeiture:** The regulatory authority has the ability, if warranted, to suspend or revoke a permit and forfeit the associated bonds, depending on the criteria surrounding the case. If the regulatory authority determines that a Permanent Program permit should be revoked or suspended, the regulatory authority must issue a show cause order. A show cause order requires the permittee to show cause why his or her permit and right to mine should not be revoked or suspended.

A permit shall be subject to suspension or revocation if:

1. The permittee has failed to abate a Notice of Delinquent Reclamation within the prescribed time;
2. The permittee has failed to abate a Cessation Order with the prescribed time;
3. The permittee has become insolvent, failed in business, has been subject to various actions related to bankruptcy or court judgements, and the permittee cannot prove the ability to continue to operate in compliance with the regulatory program and the permit and permit and plan;
4. Any other permit issued to the permittee has been revoked and the reclamation plan for the revoked permit has not been completed; or, if the reclamation plan for the revoked permit has been completed, the person to which the revoked permit had been issued has not reimbursed the reclamation fund the full cost of completing the reclamation on the revoked permit;
5. The permittee has failed to comply with a consent order entered into with the Land Reclamation Commission to correct the underlying causes of a show-cause order; or, has failed to abate a notice of delinquent reclamation within an extended time period set by the Land Reclamation Commission.

Additionally, when a pattern of violations exists and the violations were caused by the permittee willfully or through unwarranted failure to comply with those requirements or conditions, a show cause order is issued. Willful violations are those committed by a person who intends the result which

actually occurs. An unwarranted failure to comply means failure to prevent the violation or to abate it after it occurred because of indifference, lack of diligence, or lack of reasonable care.

The regulatory authority may determine that a pattern of violations exists if two or more inspections of the permit area in any 12 month period produce a violation of the same or related requirements. Furthermore, the regulatory authority shall promptly review the history of violations if any three or more inspections in any 12 month period produce a violation of the same or related requirements. When determining if a pattern of violations exists, the regulatory authority should review the violations to determine: If they are willful or due to unwarranted failure to comply; if they are isolated departures from lawful conduct; and the number of violations cited on more than one occasion of different requirements of the regulatory authority.

If the regulatory authority determines that a pattern of violations exists, then an order to show cause should be issued to the permittee. The permittee will then have the opportunity to come before the regulatory authority in a formal hearing to show cause why his or her permit(s) should not be revoked or suspended. If the permittee chooses not to respond to the show cause order, then the regulatory authority will make its decision based on the facts contained within the show cause order.

Concerning Old and Interim Law permits, if it is determined that a permit should be revoked or suspended, the director of the Land Reclamation Program must file a formal complaint with the commission. When this occurs, the commission must order a hearing and have a copy of the formal complaint and a notice of hearing delineating the time and place of the hearing served on the permittee. That notice must be served greater than ten days before the hearing.

The hearing is then held at the appointed time and place as described in the notice. Upon due consideration of the record or upon default in appearance by the permittee, the commission shall issue and enter a final order of its decision. That order shall then be forwarded to the permittee via certified mail.

- e. Injunction: The regulatory authority has the ability to refer appropriate cases to the Attorney General's Office for injunctive relief. An injunction is a court order compelling the permittee to take some action or to cease some action.

Failure to do so would constitute contempt of court, and therefore, be enforced by the court through penalties or possibly incarceration.

An injunction can be obtained when the permittee:

- Fails to comply with any order or decision of the regulatory authority;
- Interferes with the regulatory authority when carrying out the provisions of the law;
- Refuses to admit an authorized representative of the regulatory authority;
- Refuses to furnish requested information or reports; or,
- Refuses to allow access to and copying of records.

- f. Individual Civil Penalties: An individual civil penalty is issued if the inspector can document that any individual willfully and knowingly violates a condition of a permit, or fails or refuses to comply with any Cessation Order or judicial order. Proof should be such that it demonstrates willful and knowing intent beyond a reasonable doubt.

Individual civil penalties are limited in their applicability to corporate directors, officers, or agents. Service to these people of all enforcement actions and orders will enhance the possibility of proving willful and knowing actions. Penalties are assigned in a manner similar to the assignment of civil penalties assessed for enforcement actions which is discussed in the next section.

- g. Criminal Action: When a person willfully or knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement representation, or certification in any document filed or required to be maintained, he or she is subject to criminal action. If any director, officer, or agent of a corporation willfully and knowingly authorized, ordered, or carried out any refusal, violation, or failure of any Cessation Order, that person is subject to criminal action. For such actions, imprisonment will not exceed one year, and fines generally will not exceed \$10,000.00.

It is very difficult to prove knowing and willful actions in court because of lack of substantiating evidence clearly demonstrating willful and knowing intent beyond a reasonable doubt. Due to court calendars and the difficulties associated with proof, this form of alternative enforcement is seldom used. The inspector should work closely with his supervisor in following the regulatory authority's policies in any alleged criminal action.

- h. Appeals and Hearings: Once an enforcement action has been issued, the permittee has appeal rights. The permittee has thirty (30) days after receipt of an enforcement action, assessment, or some associated action to appeal that action.

There are two types of appeals - administrative and judicial. Within the administrative appeals are informal conferences and formal hearings.

Administrative Appeals. The first appeal that any permittee makes to any regulatory authority of any enforcement action must be an appeal to the administration of the regulatory authority. This appeal is to the director of the regulatory authority.

Usually, the first appeal step of a permittee is a request for a conference with the director to discuss the violation. This type of appeal is called an informal conference.

An informal conference is exactly that - informal. The permittee will meet the regulatory authority and discuss the enforcement action, assessment, or both. There will not be an official record of the meeting, but it is recorded so that the director can give his or her full attention to the meeting, and not be distracted with note taking. This also provides a verbatim record to refer to when later formulating a decision. There usually will not be attorneys present.

During the informal conference, the inspector, the assessment officer who made the assessment, or other persons with pertinent information will present the facts surrounding the enforcement action as they observe them. The permittee will then have an opportunity to present his or her side of the story. Discussion between both parties may then occur. The person running the meeting will ask questions, as well as both LRP parties present. The idea is to get as much information possible out on the issue so that the director can make the best decision possible. Both parties have the ability to present slides and other evidence to substantiate their commentary.

The director or designate then has forty-five (45) days to render a decision. The decision can be to confirm the violation as is, vacate the notice of violation, adjust the penalty points up or down, or offer a settlement agreement. The decision will be in writing and forwarded to the permittee and incorporated in the regulatory authority's files.

Once a decision to confirm the violation, vacate the notice of violation, or adjust the penalty points up or down is rendered, the permittee has thirty (30) days to accept the decision or appeal it. Failure to appeal the decision within the required time frames is considered to be acceptance. If the decision is to offer a settlement agreement, the permittee has thirty (30) days to accept the settlement offer or appeal it. If the permittee fails to take one of these steps within the required time frame, the original notice of violation and proposed penalty will be presented to the Land Reclamation Commission as uncontested. If the permittee appeals, a formal hearing is scheduled. A permittee has the right to seek a formal hearing with or without an informal conference. Information gathered in an informal conference cannot (by law) be used in a formal hearing.

The formal hearing is as the name implies - formal. There is a formal record. A professional court reporter will be present to take notes, produce a formal record, document evidence, and swear in witnesses. The record is a verbatim record. It does not summarize.

Attorneys are usually present. The regulatory authority will have a member of the Attorney General's Office representing them. The permittee may or may not have an attorney. Individuals are allowed to represent themselves while a corporation must be represented by an attorney.

The formal hearing also takes on a formal organization. All procedures of standard law as outlined in the Missouri Rules of Civil Procedure and Chapter 536, RSMo, are followed.

There are several types of formal hearings: hearings for assessments; hearings for the enforcement action; hearings for temporary relief from a Notice of Violation or Cessation Order that ceases operations of a permittee; and an on-site hearing is required either in connection with the request by the permittee for temporary relief or when inaction that requires the cessation of mining will continue in effect for a longer period than thirty (30) days.

Judicial Appeals. If the permittee is not satisfied with the results of the administrative process, appeal is available as per the provisions of the Surface Coal Mining Law and Chapter 536 governing administrative procedures.

- I. Commission Involvement: The Land Reclamation Commission is the body charged with enforcing the Surface Coal Mining Law. As such, per the law, Land Reclamation Commission representatives issue all routine enforcement actions such as Notices of Violation, Notices of Delinquent Reclamation, and Cessation Orders.

The commission issues all other enforcement actions. These include civil penalty assessments, show cause orders, permit revocations, bond forfeitures, and individual civil penalties. The commission authorizes the staff to pursue injunctions and criminal actions. However, permission is gained from the commission on each case prior to proceeding.

The commission also serves as the formal appeal reviewing body. A formal appeal of any enforcement action is heard before the commission or an appointed hearing officer following normal judicial and trial practices.

#### 4. Attorney General Referral

- a. Injunctions: This referral is made to the Attorney General whenever the operator:
- Violates or refuses to comply with a final order from the commission or director;
  - Interferes with or hinders the carrying out of the provisions of the law;
  - Refuses entrance to the mine by the commission or its representatives;
  - Refuses to provide any information or report requested by the commission or director;
  - Refuses to permit access to or copying of such records;
  - Refuses to permit inspection of monitoring equipment; or
  - Mines or disturbs any land without a permit.
- b. Penalty Collection: This referral is made when the commission has assessed civil penalties and the staff has been unable to collect them.
- c. Criminal Actions: This referral is made when any person willfully and knowingly authorized, ordered, or carried out a refusal to comply with any enforcement order incorporated in any final decision issued by the commission, or when a person knowingly makes any false statement, representation, or certification. The Attorney General will then work in conjunction with the county prosecutor.

- d. **Permit Revocation and Bond Forfeiture:** This referral is made to the Attorney General to develop a show cause order when:
  - The permittee has failed to abate a Notice of Delinquent Reclamation within time frames established for abatement;
  - The permittee has failed to abate a Cessation Order within time frames established for abatement;
  - The permittee has financial problems that will no longer allow him or her to continue to operate in compliance;
  - Any other permit has been revoked that was issued to that permittee and the permittee had not completed reclamation on that permit;
  - The permittee has failed to comply with conditions established by the commission concerning a permit suspension or abatement extension on the same issue; or
  - A pattern of violations was determined to exist.
- e. **Appeals:** This referral is made when any enforcement action issued is formally or judicially appealed by the recipient.
- f. **Opinions:** This referral is made when the staff or commission needs an interpretation of a statute, regulation, or policy.

Generally speaking, referrals are made by the commission. The staff will request the commission to refer a matter to the Attorney General's Office. However, there is often discourse that is taken between the staff and the Attorney General's Office.

- 5. **Assessments:** Once an enforcement action is issued, whether it is a Notice of Violation or a Cessation Order, it must be reviewed and assessed some penalty. That penalty may either be zero or some dollar amount based on the following discussion.
  - a. **Notices of Violation:** The criteria for assessing a Notice of Violation shall be discussed first. Four criteria are used to assess a Notice of Violation. Those four criteria are history of previous violations, seriousness of the violation, degree of negligence involved, and the operator's good faith in achieving compliance once the violation has been cited.

History takes into consideration the enforcement actions previously issued to the permittee. Generally, the enforcement actions are counted for a period of 12 months after appeal rights concerning that violation have expired, or after

the administrative appeal proceeding has been concluded. Notices of Violation are assigned one point. Cessation Orders are assigned five points. A maximum of 30 points are assigned.

Seriousness usually takes into consideration three criteria. One is the probability of the occurrence of the event which a violated standard is designed to prevent. Up to 15 points can be assigned. The second is the extent of potential or actual damage that occurs due to the violation. Up to 15 points can be assigned. The third is whether or not the damage occurred on or off the permit. Up to 15 points can be assigned. Generally, the greater the damage, the higher the penalty. Also, damage that occurs off the permit is assessed heavier than damage that occurs on the permit.

Negligence is based on the degree of fault of the permittee in causing or failing to correct the violation, condition or practice which led to the issuance of the Notice of Violation. Up to 25 points can be assigned. Generally, three separate criteria affect the level of negligence. If there is no negligence, the points assigned will be low. If it is deemed that the violation was caused by negligence, the points assigned will be moderate. If the violation occurred through a higher degree of fault than negligence, then the points assigned will be higher. The greater the degree of negligence, the greater the number of points that a Notice of Violation will be assigned.

Good faith is where the permittee has the ability to reduce the final civil penalty. Up to 10 points can be deducted. Generally, two criteria are examined when assessing this area. Rapid compliance is where the permittee abates the Notice of Violation faster than required. The faster the permittee abates the violation, the more points are deducted. Another item that is taken into consideration is extraordinary measures. The operator may receive a larger deduction if changes to the operation are made to abate violations quicker.

The points are then totaled. These points are then matched to a dollar amount in a table in the regulations. The maximum point total is 70, and the maximum fine is \$5,000.00. If the penalty points total thirty (30) or less, a monetary penalty *may* be assessed. A point total of thirty-one (31) or more *shall* result in the assessment of a monetary penalty.



- b. Notice of Delinquent Reclamation: In addition to being assessed the same as a Notice of Violation, the Notice of Delinquent Reclamation receives a second assessment. A penalty of 25 cents per ton of coal sold, shipped, or otherwise disposed of during the delinquency period *shall* be imposed on the permittee.
- c. Cessation Orders: Cessation Orders are, by law, assessed a civil penalty not less than \$750.00 per day, nor more than \$5,000.00 per day. Where Notices of Violation have the option of not being assessed a dollar amount, a Cessation Order will be assessed a minimum of \$750.00 for each day it continues, up to a maximum of thirty days.

## **VIII. COMPLIANCE DATA MANAGEMENT**

### **A. DESCRIPTION OF THE DATA SYSTEMS**

Inspection dates and all enforcement actions are tracked utilizing database programs in addition to word processing programs on IBM compatible personal computers.

### **B. COMPLIANCE TRACKING ACTIVITIES AND RESPONSIBILITIES**

1. All compliance tracking is done from the central office.
2. Data entries are made on a weekly basis by the clerk-typist typing inspection reports and/or enforcement items.
3. Tracking of inspection and enforcement activities is done by the supervisor of the Coal Unit of the Inspection and Enforcement Section in addition to the individual inspectors responsible for the activities.

### **C. REGULAR AND SPECIAL COMPLIANCE REPORTS**

#### **1. Contents and Periodicity**

- a. The cover sheet for Class 1, 2, and 3 inspection reports shall indicate:
  1. The names of the mining companies, their permit (inspectable unit) numbers, the month and date of the inspection, in addition to the type of inspection conducted - Class 1 (aerial or A), Class 2 (partial or P) and Class 3 (complete or C). This information is in tabular form and can be retrieved for all mines and inspectors or for any mine (company), permit, or inspection date(s);
  2. This report is produced on a quarterly basis for the Section Chief, Unit Chief and inspectors.
- b. An enforcement tracking report entitled "Tracking Report, Enforcement Activity, Active Cases", is presented in tabular form and can be retrieved in any fashion. This report is produced monthly for the Inspection and Enforcement Section Chief, the Coal Inspection and Enforcement Unit Chief and the field inspectors. It is also produced the Land Reclamation

Commission for their bi-monthly meetings. The enforcement tracking report indicates:

1. The record number;
2. The mine operator;
3. The county the mine is located in (FIPS code);
4. The Land Reclamation Program field inspector for the mine;
5. The docket number for the enforcement action;
6. The inspection date which resulted in the enforcement action;
7. The enforcement action number (unique);
8. An abbreviated description of the violation;
9. The date the enforcement action was issued;
10. The date the enforcement action was received;
11. The date the enforcement action is to be abated;
12. Whether the enforcement action has been modified, and if so, how many times;
13. The date the modification was issued;
14. The date the modification was received;
15. The date the termination inspection occurred;
16. The date the termination was issued;
17. The date the termination was received;
18. The amount of penalty proposed by the staff;
19. The date the penalty proposed by the staff was issued;
20. The date the penalty proposed by the staff was received;
21. The amount of penalty as reassessed by the staff;
22. The date the reassessment was issued;
23. The date the reassessment was received;
24. The amount of a notice of delinquent reclamation tonnage penalty assessment;
25. The date the notice of delinquent reclamation assessment was issued;
26. The date the notice of delinquent reclamation assessment was received by;
27. The date of the informal assessment conference;
28. The amount of the penalty proposed by the program director;
29. The date the penalty was proposed by the program director;
30. The date the program director's proposed amount was received by the company;
31. The date the formal hearing was held to review the enforcement action and assessment;
32. The date the penalty was assessed by the Land Reclamation Commission;

33. The amount of the penalty assessed by the Land Reclamation Commission;
34. The date the order for payment is issued for the penalty assessed by the Land Reclamation Commission;
35. The date the penalty assessed by the Land Reclamation Commission is received by the company;
36. The date the penalty is received by the Land Reclamation Program from the company;
37. The date the penalty is mailed to the county treasurer;
38. The date the enforcement action was vacated;
39. The date the vacation of the enforcement action is received by the operator;
40. The status of the enforcement action: O - enforcement actions issued to active companies; V - enforcement actions that have been vacated; A - enforcement actions which the company has not responded to and have been sent to the Attorney General's Office.

**IX. RELATIONSHIP OF OTHER PROGRAM ACTIVITIES TO INSPECTION AND ENFORCEMENT****A. PLANNING**

From a program perspective, planning facilitates Inspection and Enforcement by insuring that adequate personnel and budget resources are provided in order to accomplish the Inspection and Enforcement goals of the program. In terms of planning within the Coal Section, meetings between Permitting staff and the Inspection staff are held frequently in order to achieve continuity and an exchange of ideas and perspective between the two sections.

**B. PERMITTING**

Permitting is an area of review and responsibility primarily assigned to the coal staff in the Permitting Section. In order to insure that items within a permit which could negatively impact inspection and enforcement are identified and to provide insight gained from field inspections, the Inspection staff performs a cursory review of submittals as they arrive in the office and a cursory review of staff comments before they leave the office.

**C. ASSISTANCE ACTIVITIES**

Coal permitting staff may assist Inspection and Enforcement staff with specialized field assessments of various items within the permitting individual's area of expertise. Examples include assessment of engineered structures by the staff engineer, and evaluation of soil replacement by the staff assigned to review soils information in the permits.

**D. ANALYTICAL OR RESEARCH ACTIVITIES**

GPS usage of Global Positioning System equipment to determine the location of regulated facilities will be conducted in accordance with the department's policy: "Data Processing Standard Operating Procedures, Number 024.00, Latitude and Longitude Locational Accuracy". See appendix \_\_\_\_\_ for an example of the policy and data entry forms.

E. OPERATOR TRAINING

Not applicable.

F. PUBLIC INFORMATION AND EDUCATION

Publication of an annual report is the only mandatory dissemination of public information provided by the program. Other than the information discussed in Chapter III. Section C. Of this report, all information possessed by the Land Reclamation Program is subject to the state "Sunshine Law" with respect to availability to the public.

G. IDENTIFICATION OF SPECIAL TRAINING NEEDS OF THE LAND RECLAMATION PROGRAM, INSPECTION AND ENFORCEMENT STAFF

Coal Inspection and Enforcement is a field which requires a wide range of knowledge by the staff. New employees are required to have a background of education and experience in an environmental field. Even so, that background is likely to be more specialized than would be ideal for a person joining the Inspection and Enforcement staff.

As such, unless an individual can demonstrate proficiency in the following areas, mandatory training will include but is not limited to the following:

1. Program orientation within the first six months of employment
2. Environmental Investigative Training within one year of the employment date. This should include investigative field and inspection techniques, and sample collection and preservation;
3. Safety training within one year of employment date;
4. Expert witness training within two years of employment date;
5. Photography training within two years of employment date; and
6. Public relations/media training within two years of employment date.

Other technical training will be provided as needs are identified and the training is available.

**H. QUALITY CONTROL**

All coal enforcement actions issued are reviewed by the supervisor of the Coal Unit, as well as the Chief of the Inspection and Enforcement Section. In addition, it is encouraged that inspectors periodically accompany one another on inspections to achieve consistency, technical services personnel accompany the inspectors periodically or by request to provide expertise in their specialized fields, and the supervisor of the coal staff accompany the inspectors periodically to assess their individual inspection procedures and skills.

**APPENDIX**

### **III. LAWS AND REGULATION SUMMARY**

#### **A. LISTING OF COMPLETE SET OF LAWS AND REGULATIONS**

##### **1. Laws**

###### **The Land Reclamation Act**

- 444.762 Declaration of Policy.
- 444.765 Definitions.
- 444.767 Powers of the Commission.
- 444.770 Permit required, when-release of certain bonds.
- 444.772 Permit-application, contents, fees-amendment, how made-successor operator, duties of.
- 444.773 Director to investigate applications-recommendation-hearing.
- 444.774 Reclamation requirements and conditions.
- 444.775 Release of bond, conditions-petition, hearing-administrative review.
- 444.777 Entry upon lands and inspection by commission members-warrants to issue.
- 444.778 Bond-form-amount-duration-forfeiture-power of reclamation.
- 444.782 Attorney general to represent commission, when- hearings on bond forfeiture, notice.
- 444.784 Commission rules and regulations authorized-delegation of authority-forfeiture funds, where expended.
- 444.786 Operation without permit prohibited, penalty.
- 444.787 Investigation by commission, Attorney General to file suit-formal complaint procedure.
- 444.788 Civil Action (injunctive relief).
- 444.789 Administrative procedure (hearings).
- 444.790 Administrative penalties-not to be assessed for minor violation, definition-amount set by rule, limitation-payment when -appeal, effect-surcharge due when-unpaid penalty, collection-time limitation to assess violation-judicial appeal-civil action, effect, exception-habitual violator, defined.



## 2. Regulations

### a. Chapter 10 - Permit and Performance Requirements for Industrial Mineral Open pit and In-Stream Sand and Gravel Operations.

- 10 CSR 40-10.010 Permit Requirements
- 10 CSR 40-10.020 Permit Application Requirements
- 10 CSR 40-10.030 Bonding
- 10 CSR 40-10.040 Permit Review Process
- 10 CSR 40-10.050 Performance Requirements
- 10 CSR 40-10.060 Inspection Authority and Right of Entry.
- 10 CSR 40-10.070 Enforcement.
- 10 CSR 40-10.080 Hearings and Informal Conferences.
- 10 CSR 40-10.090 Annual Reclamation Status Report.
- 10 CSR 40-10.100 Definitions.

## B. SUMMARY OF LEGAL PROVISIONS SPECIFICALLY RELATED TO INSPECTION AND ENFORCEMENT

### 1. The Land Reclamation Act

- 444.767 Commission has authority to conduct investigations and inspections; to ensure compliance; conduct hearings; order operators to take corrective measures; issue, after hearing, an operator to adopt corrective measures, a final order to suspend or revoke the operator's permit or request the Attorney General to initiate bond forfeiture for failure to comply.
- 444.767 Authority to obtain injunctions, appropriate relief and any other order of the commission and to order, after a hearing, the operator to take corrective measures.
- 444.770 Makes it unlawful to operate a Surface Mine without a permit.
- 444.777 Authorizes representative of the commission to perform inspections of lands being surface mined. Allows for search warrants to be issued.
- 444.778 Requires commission to give written notification to the operator of any violation or non-compliance prior to forfeiture of the performance bond.
- 444.782 Attorney General to institute bond forfeiture at commission's request. Must give notice and opportunity for hearing. Commission to render decision on results of hearing.

- 444.784 Any act authorized to be done by the Program Director may be performed by any employee of the commission when designated by the commission.
- 444.786 Operation without a permit is a misdemeanor.
- 444.787 Commission shall inspect surface mining sites and issue issued injunctions and Civil Penalties if the operator has no permit, and administrative enforcement action if a permit is in force. Use of conference, conciliation and persuasion. Procedures, Appeals, hearings, final orders of the commission.
- 444.788 Commission may file for injunction, collection of the Civil Penalty and forfeiture of bond upon finding that a violation exists in either Cole County or the county where the violation occurred. The Attorney General shall bring the suit.
- 444.789 Procedures for hearings. Use of hearing officer. Commissioners to issue subpoenas. Rules of discovery.
- 444.790 Use of administrative penalties. Not to be assessed for minor violation, definition-amount set by rule, limitation-payment when -appeal, effect-surchage due when-unpaid penalty, collection-time limitation to assess violation-judicial appeal-civil action, effect, exception-habitual violator, defined.

## 2. Regulations

- a. 10 CSR 40-10.060 describes the access by the Commission and authorization representatives; and the use of search warrants.
- b. 10 CSR 40-10.070 describes the enforcement procedures for operations without a permit; enforcement procedures for operations with a valid permit; use of a formal complaint; service of notices of violation, formal complaint or Commission Orders; permit revocation or suspension; bond forfeiture; penalty assessment.
- c. 10 CSR 40-10.080 describes the procedures for holding hearings and informal conferences.
  - (1) Hearings, requirements to be met for holding;
  - (2) Procedure for hearings before the commission;
  - (3) Informal conferences.

C. CONFIDENTIALITY ISSUES

1. Sunshine Law: under the Sunshine Law, the following information shall be kept confidential. Any request to view this information must be coordinated through the Attorney General's Office.
  - a. All issues relating to pending litigation and any written information from the Attorney General that gives legal advice or opinion;
  - b. Leasing, purchasing or sale of real estate where public knowledge might adversely affect the legal considerations;
  - c. Matters concerning the State Militia or National Guard;
  - d. Meetings with union representatives or recognized employees organizations;
  - e. Meetings and public records relating to scientific and technological innovations in which an owner has a proprietary interest.
2. Complaints: When the complainant requests confidentiality the file information shall be kept confidential by the use of the procedure established by the department.

#### **IV. INSPECTIONS**

##### **A. STATEMENT OF PURPOSE OF INSPECTION AND EXPECTATIONS OF THE PROGRAM REGARDING THE INSPECTION ACTIVITY**

The Inspection and Enforcement Section of the Land Reclamation Program is directed by state law and the Land Reclamation Commission to provide inspection activities at surface mining operations in order to insure that said operations are in compliance with state law and rules and regulations of the Land Reclamation Commission and to follow the established enforcement procedures when violations and non-compliances are detected.

##### **B. LISTING AND DISCUSSION OF VARIOUS INSPECTION ACTIVITIES BY CLASS 1, 2, 3 AND 4**

- Class 1: This level of inspection activity is regarded as a specific check of surface mining or reclamation activities in order to determine whether corrective measures have been taken by an operator to abate a final order or notice of violation. It may also involve the initial contact made at an unpermitted operation or the check on a component of a bond release request, such as grading, top soiling or reseeding. Contact with the operator is always encouraged in this class of inspection, unless other arrangements are made with the operator prior to the inspection or if the operator isn't available. It may not involve an on-site inspection but could be in the form of aerial or side of the road observations.
- Class 2: This level of inspection involves an on-site investigation of surface mining or reclamation activities with the operator, if possible, and review of the permit and files to ensure compliance. The inspection may incorporate the initiation or abatement of an enforcement actions or investigation of a bond release request. It may also be the focus of a complaint response where only certain aspects of the operation are checked.
- Class 3: This level of inspection involves a thorough on-site evaluation of the surface mining operation and reclamation activities along with a review of all permits, files, law, and applicable regulations. The inspector should also check for the off-site effects of the surface mining operation. The operator should be given prior notification of the inspection and be present during the inspection.
- Class 4: Not applicable.

C. DISCUSSION OF SAMPLING EXPECTATIONS FOR CLASS 1, 2, 3 INSPECTIONS

Water Sampling: Sampling is necessary during bond release inspections and during compliance inspections to be assured that the water quality is adequate in final pit impoundments, if indicated by standard detection methods. Such sampling will be done by pH meter or assure that the pH of the water is between 6.0 and 9.0. In the case of tar sand operations, a sample will be taken to determine that the oil content has not exceeded the limit set by the NPDES permit.

Spoil Sampling: Sampling is necessary during bond release inspections and compliance inspections if acid forming or other materials requiring special handling are encountered during mining. Acid forming materials shall include those identified in 10 CSR 40-10.050(5)(C).

D. DETAILED DESCRIPTION OF THE MINIMUM CONTENTS OF CLASS 1, 2, AND 3 INSPECTION REPORTS

All inspection reports shall have a cover sheet attached which lists the following information:

- company name
- permit number
- inspection date
- date of previous inspection
- company personnel present
- enforcement actions taken as a result of the inspection
- weather conditions
- site name or location
- county
- list of standards violated
- type of inspection
- mineral commodity
- standards that were found in violation
- check on ASCS air photos and whether ordered
- list of performance standards
- date report written
- name and signature of inspector and date signed

- Class 1: The report shall be in letter format and involve a detailed discussion of the operator's compliance with the performance standards listed in the rules for bond release. Or it may involve a check of the operator's compliance with the abatement measures listed in an enforcement action. In either case the findings of the inspection shall be detailed and summarized for the operator with a recommendation for further action and/or notification of the course of action that the Land Reclamation Program will pursue as a result of the findings.
- Class 2: The report shall be in letter format and involve the items listed in the Class 1 Inspection Report. If the investigation involves a response to a complaint, the specific aspects of the complaint will be emphasized. If the complainant has requested confidentiality, their name or other identifying remarks will be omitted from the report. A copy of the report will be sent to the complainant as well as the operator.
- Class 3: The report shall be in letter format and involve the items listed in the Class 1 inspection report. The details of all aspects of the operation shall be described in the report along with any violations that have been found and the accompanying enforcement actions taken. All supporting evidence, including samples taken, shall be described in the report along with any other observations of significance.

E. INSPECTION PROCEDURES, INCLUDING SAFETY CONSIDERATIONS

The mine operator shall be notified prior to the inspection unless it is necessary to check for non-compliances that may be concealed otherwise. The inspector shall present proper credentials upon contact with the mine operator. The mine operator shall accompany the inspector or give permission to do so unaccompanied. If the site is being operated without a permit the inspector shall obtain the name and address of the operator before proceeding, if possible. If the operator or landowner refuses access to the inspector of any surface mined area or area where there is supporting evidence that surface mining is being or has been conducted, the inspector shall contact the Land Reclamation Program office. The inspector's supervisor, the Section Chief or the Program Director will contact the Attorney General's Office for a suitably restricted search warrant. Upon receipt of the search warrant a request shall be made of the County Sheriff's Office to

accompany the inspector on the inspection of the area. The inspector shall inspect all area of the mine site where statutory authority extends, take all samples, photos and other evidence along with pertinent field notes. The operator will be informed of the results of the inspection following completion before the inspector leaves the site. If the operator is not present, he shall be informed of the results of the inspection over the phone and with a copy of the Inspection Report. The company's field file shall be carried by the inspector during the inspection for reference. The following safety equipment will be carried and used as appropriate: steel toed shoes, hard hat, safety glasses, appropriate clothing. The inspector should also attend safety training in order to be aware of the hazards present at a mine site. Dangerous or careless behavior will not be tolerated and will result in disciplinary action.

F. INSPECTION FORMS AND REPORTS

All inspection reports will be completed within ten (10) days of the inspection. The reports will not be reviewed unless prepared by a probationary employee. All Inspection Reports shall be in narrative form.

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## **V. SURVEILLANCE**

Not applicable.



## **VI. CONFERENCE CONCILIATION AND PERSUASION**

### **A. DESCRIPTION OF THE CONCEPT, STATEMENT OF PURPOSE AND THE PROGRAM'S EXPECTATIONS**

The concept of conference conciliation and persuasion involves administrative efforts on the part of the Land Reclamation Program to convince an operator to take the necessary steps to abate or remedy a violation of the law or regulations. Section 444.787.2 states: "If an investigation shows that a surface mining operation for which a permit has been issued is being conducted contrary to or in violation of any provision of sections 444.760 to 444.789 or any rule or regulation promulgated by the commission or any condition imposed on the permit or any condition of the bond, the director may by conference, conciliation or persuasion endeavor to eliminate the violation."

The rules at 10 CSR 40-10.070(1) does not allow for the use of conference, conciliation or persuasion if a permit has not been issued to the operator or, if the permit has expired. Subsection (A) states: "If surface mining activities are being conducted without a permit or in violation of any revocation order and a variance has not been issued, enforcement action shall be taken." Subsection (2) states: "Conference, conciliation and persuasion (CC&P). If during the course of inspection, it is determined that surface mining operation is being conducted contrary to or in violation of any statute or regulation promulgated by the commission, a condition of the permit variance or condition of the bond, the director, by conference, conciliation or persuasion, may endeavor to eliminate the violation."

The purpose of conference, conciliation and persuasion is to provide a mine operator with the opportunity to correct a problem that may become a violation of the law or rules in a manner that is acceptable to the department, commission and the operator.

### **B. VARIOUS ACTIVITIES WHICH CONSTITUTE CONFERENCE AND PERSUASION CONCILIATION**

Conference, conciliation, and persuasion shall involve the review of an alleged violation by the inspector, his supervisor, the I & E Section Chief, and finally the Land Reclamation Program Director.

The Program Director will decide on what form of action is to be taken, based upon criteria set forth in the IM Prioritization Procedure. Conference, conciliation and persuasion can also involve the Informal Conference that the operator can request after a Notice of Violation is written, or any modification of the abatement measures or schedules, and any correspondence or conferences with the Land Reclamation Program personnel or the Attorney General's Office.

C. RECORD KEEPING RELATED TO CONFERENCE CONCILIATION AND PERSUASION

All pertinent memos, telephone conversation logs, field inspection reports, or meeting records between field personnel, Land Reclamation Program and Department of Natural Resources officials and operators and their representatives shall be placed in the company's permit and inspector's field files. All pertinent material shall also be copied to the Attorney General's Office, as appropriate.

D. TIME LIMITS FOR VARIOUS FORMS OF CONFERENCE, CONCILIATION AND PERSUASION BEFORE ENFORCEMENT ACTION IS REQUESTED

1. Operations without a permit.

- a. If the information is available, contact the operator by phone to explain requirements for permitting under state law. A field inspection is planned at this time. The inspection is planned for no later than two weeks from the date that information about the unpermitted operation is received.
- b. During the field inspection the permit requirements are explained to the operator and evidence is gathered concerning the extent of the mining operation.
- c. The inspector will inform the IM Unit Chief, who will notify the I & E Section Chief. The IM Unit Chief will prepare a recommendation through the Section Chief to the Program Director that a Notice of Violation be issued to the operator. The Program Director will consider the facts of the situation and decide whether the violation of operating without a permit is a significant or minor violation, as per the prioritization procedure. If the violation is considered significant, enforcement action will be pursued with a Notice of Violation. If the violation is considered minor, the operator will be given thirty (30) days to submit an application for a permit to operate a surface mine.

- d. If the operator fails to submit a permit application within the thirty (30) day period, the inspector will inform the IM Unit Chief, who will notify the I & E Section Chief. The IM Unit Chief will prepare a recommendation through the Section Chief to the Program Director that a notice of violation be issued to the operator. A Notice of Violation is to be prepared within two (2) days of the decision of the Program Director to issue the notice.
2. Operators who are late with annual permit renewals.
    - a. All permit holders are notified of pending permit expiration at least sixty (60) days prior.
    - b. Thirty (30) days after permit expiration the inspector will call the operator to inform him of the need to renew and to schedule an inspection verify if reclamation is pending or mining is being conducted.
    - c. If the results of the inspection are that reclamation is pending or mining is being conducted the inspector will inform the IM Unit Chief within two (2) days of the inspection, who will discuss the matter with the I & E Section Chief. The IM Unit Chief will prepare a recommendation through the Section Chief to the Program Director that a notice of violation be issued to the operator. A notice of violation is to be prepared within two (2) days of the decision of the Program Director to issue the notice.
3. Violation of Performance Standards
    - a. A field inspection is conducted to verify compliance with 10 CSR 40-10.010 to .100. If a violation is found, within two (2) days the matter is discussed with the IM Unit Chief who will notify the I & E Section Chief. The IM Unit Chief will prepare a recommendation through the Section Chief to the Program Director that a notice of violation be issued to the operator. A notice of violation is to be prepared within two (2) days of the decision of the Program Director to issue the notice.

## **VII. ENFORCEMENT**

### **A. STATEMENT OF PURPOSE AND EXPECTATIONS OF THE LAND RECLAMATION PROGRAM REGARDING THE ENFORCEMENT ACTIVITY**

1. The purpose of the use of enforcement activity in the Land Reclamation Program under "The Land Reclamation Act", sections 444.760 to 444.790, is to gain compliance and reduce or eliminate any obvious threats to public health, safety or livelihood and the environment.
2. It is the goal of the Land Reclamation Program to provide a level playing field for all operators in the state by fairly and equitably enforcing the state law and regulations.

### **B. ENFORCEMENT PROCEDURES**

1. Criteria for Issuing Notices of Violation:
  - a. Whom: Any authorized representative of the Land reclamation commission that has been properly trained and deemed qualified by the Chief of the I & E Section.
  - b. What: Any notice of violation can be issued by any inspector after approval by the Program Director.
  - c. When: Whenever a violation is detected at a permitted mine site the inspector shall return to the office and discuss the matter with the IM Unit Chief and subsequently the I & E Section Chief. Following the outcome of the discussion, a memorandum containing a recommendation is prepared by the IM Unit Chief through the I & E Section Chief to the Program Director. The Program Director will decide if the violation fits the criteria for a significant violation or a minor violation.
  - d. Where: Issuance can be completed to the mine site business address, or to a registered agent.
  - e. Why: The law and regulations dictate the violation to be issued by the Program Director following the use of conference, conciliation, and persuasion.
  - f. How: Issuance is completed by Certified Mail or hand delivery for all enforcement actions.
  - g. To Whom: All enforcement actions are issued to the operator, and can be accepted by any authorized representative of the company.

## 2. Enforcement Action Request Procedures

- a. When an inspector detects a violation at a permitted mine site and subsequent to discussions concerning a recommendation to the Program Director, the following procedure is used to determine if a violation will be prepared.
- b. Minor violations result in the operator being given thirty (30) days to comply and are those which involve:
  - 1) First time operators who have never had a permit to operate a surface mine.
  - 2) Disturbance of minor number of acres beyond the permitted acreage. A minor number of acres is defined as less than the average number that would normally be affected during a twelve (12) month period.
  - 3) In-stream sand & gravel operators who are operating without a permit.
- c. Significant violations are those which involve:
  - 1) Operators who are creating significant department-wide or division-wide violations or where major citizen or legislator complaints are received or where there are obvious threats to the environment or to public health, safety or livelihood.
  - 2) Any operator who knowingly violates the law or rules by failing to permit a site or an area of land that exceeds the average acreage affected during the twelve (12) month permit cycle or any performance requirement listed in the regulations. Knowingly violates is defined as any operator who has been issued a permit to operate a surface mine or who has been previously informed of the permitting and/or performance requirements.
  - 3) Any operator who has not abated a minor violation within the thirty (30) days allowed.
- d. Operations without a permit who are found to be in violation will be subject to an injunction as requested of the Attorney General's Office by the Program Director.

### 3. Administrative Enforcement Activities

- a. Notice of Violation: This is a document that notifies the operator that a law or rule has been violated. A Notice of Violation is issued whenever there is: a violation of the law that has been prioritized as significant by the Program Director; and no previous enforcement action has been issued addressing the situation. The inspector must issue the Notice of Violation in writing signed by himself along with a standard cover letter signed by the Program Director. These items must be clearly and concisely included:

- Nature of the violation;
- The law, rule or permit violated;
- Remedial action required, including any interim steps;
- A description of the portion of the mine or area to which the notice of violation applies.

The inspector should ensure that all parts are readable and understandable.

- b. Formal Complaint: A formal complaint is issued by the Program Director if the operator has not abated the notice of violation within the time period specified or has not paid a penalty within ninety (90) days of receiving the assessment by the Land Reclamation Commission. The Program Director will prepare the formal complaint for presentation to the Land Reclamation Commission. The formal complaint and Land Reclamation Commission notice shall be sent via certified mail to the operator under cover letter from the Program Director. These items must be included:

- A brief history of the permitting and mining activities associated with the operator;
- A detailing of the violation(s) found by the inspection staff;
- A citation of the rule 10 CSR 40-10.070(3)(A),(B)&(C)
- A recommendation by the Program Director that sufficient attempts to resolve the situation have not been successful and that the violation constitute adequate grounds to seek permit revocation and bond forfeiture.

The formal complaint shall be accompanied by a notice from the Land Reclamation Commission informing the operator of the filing of the formal complaint and notifying him of his right to a hearing.

- c. **Permit Revocation:** The Land Reclamation Commission has the right to temporarily suspend or permanently revoke a permit for:
- failure to take corrective actions as directed by the Commission within ninety (90) days;
  - insolvency, failure in business, bankruptcy, or has proved an inability to comply with the regulatory program and permit;
  - the operator's failure to replace a surety bond;
  - the operator's failure to pay an administrative penalty within ninety (90) days of assessment by the Commission. If the operator requests a hearing the Commission must render a decision in writing and notify the operator of that decision.
- d. **Bond Forfeiture:** The Commission may forfeit the operator's performance bonding following the Commission's revocation of the surface mining permit.
- e. **Injunction:** When an operator has failed to obtain a permit to operate a surface mine the Commission may request the Attorney General's Office to file for an injunction to halt all mining operations.
- f. **Appeals and Hearings:** Once an enforcement action has been issued an operator has appeal rights. The operator that is in possession of a valid permit has fifteen (15) days after receipt of a notice of violation, assessment or associated action to appeal that action.

There are two types of appeals - administrative and judicial. Within the administrative appeals are informal conferences and formal hearings.

- 1) **Administrative appeals:** these involve informal complaints.
  - a) **Informal conferences:** An informal conference is held after a written request is received by the LRP within the fifteen (15) day time period. The meeting is usually taped by the Program Director, who uses the tape recording for reference and not as evidence for any future hearings or court cases related to the enforcement action. Attorneys are usually not present.

The operator has the opportunity to contest either the fact of the violation, the assessment, or both items. The Program Director listens to testimony by the staff: the inspector, penalty assessment officer and others who have pertinent information to present. The operator will also present evidence as well as be allowed to question the staff on their presentations. The Program Director will question any and all parties present concerning the facts of the case.

The Program Director has thirty (30) days to render a decision. He may confirm, modify or vacate the notice of violation, and/or raise, lower or confirm the proposed assessment. The Program Director's decision will be sent in writing to the operator via certified mail.

- b) A formal hearing may be requested by the operator if requested within fifteen (15) days of receipt of a formal complaint.

When a request for a hearing is received the Commission may utilize a hearing officer to conduct the hearing or a member of the Commission may serve as the hearing officer. A court reporter is used to transcribe all testimony and tag all evidence. All hearings are a matter of record and considered a contested case. Attorneys are present and the hearing officer may take oral argument, and examine the testimony of all witnesses and evidence.

The Commission shall make the final decision as to the results of the hearing and shall notify the operator of its decision by certified mail. All final orders of the Commission are subject to judicial review, which shall not become available until all administrative remedies are exhausted as provided by Chapter 536, RSMo.

- 2) Judicial Appeal: If the operator is not satisfied with the results of the administrative process, appeal is available as per the provisions of The Land Reclamation Act and Chapter 536, RSMo. governing the administrative procedures.



- g. Commission Involvement: The Land Reclamation Commission is the enforcement agency. As per the law, the Program Director issues notices of violation and formal complaints.

The Commission formally authorizes all notices of formal complaints, requests for injunctive relief, permit revocations, administrative penalty assessments and bond forfeitures. The Commission authorizes the staff to pursue enforcement actions after a Notice of Violation is issued. However, permission is gained from the Commission on each case prior to proceeding beyond issuing a Notice of Violation.

The Commission also serves as the formal appeal reviewing body. A formal appeal of any enforcement action is heard before the Commission following normal judicial and trial practices.

#### 4. Attorney General Referral

- a. Injunctions: This referral is made to the Attorney General's Office when an operator refuses to obtain a permit to operate a surface mine or fails to comply with any final order of the Commission. Referral is made from the Commission to the Attorney General through the staff of the Land Reclamation Program.
- b. Permit Revocation and Bond Forfeiture: Referral is made to the Attorney General after the Commission has rendered its final decision to revoke a permit and forfeit the operator's performance bond. The Attorney General will be contacted by the Land Reclamation Program to request they send a demand letter to the bonding entity. The Attorney General will handle any Certificates of Deposit, Letters of Credit and Surety Bond forms, and will accept the payment check from the bonding entity. These will be forwarded to the Land Reclamation Program for deposit upon receipt by the Attorney General.
- c. Habitual violators: The Commission may refer an operator to the Attorney General for filing for Civil Penalties if he has been determined to be an Habitual Violator.
- d. Appeals: This referral is made when any enforcement action issued is formally or judicially appealed by an operator.
- e. Opinions: This referral is made when the staff or Commission needs an interpretation of a statute, rule or policy.

5. Assessments: After a Notice of Violation is issued a proposed assessment is prepared. The range of the dollar amount is from zero (0) to one-thousand dollars (\$1,000.00). The penalty may be assessed for each day that the violation has occurred, however, it is typically assessed for only one (1) day.

The criteria for assessing a Notice of Violation involves establishing a basic dollar figure using a matrix or table. Additions or subtractions are made to the initial dollar amount based upon: good faith or lack of good faith; the degree of willfulness and/or negligence; the history of non-compliance; and the operator's ability to pay.

The matrix or table involves use of the criteria for determining potential for harm and the extent of the deviation from the requirement. The potential for harm involves applying a numerical value (from one-being the least serious, to three-being the most serious) to the parameters of:

- Risk of exposure of human or environmental receptors;
- potential seriousness of exposure;
- harm to the regulatory program.

The point total of the above is totaled and divided by three. The numerical value obtained is assigned a dollar amount on the matrix or table.

The matrix value for extent of the deviation is determined by whether the violation represents a major, moderate or minor deviation from the requirement of the rule or law.

Good faith points are earned by rapid abatement of the notice of violation. Up to \$100.00 can be deducted in this category.

Under the degree of willfulness/negligence the dollar value may be raised or lowered based upon:

- the operator's control of the situation;
- the foreseeability of the events that contributed or led to the violation;
- the precautions taken and whether the operator was diligent, negligent or his conduct was intentional and led to a threat to health and/or safety;
- the legal requirement and was warned of the same or of any hazards associated with the violation.

For the history of noncompliance a dollar value may be added for all violations that were issued to the operator that are of a similar nature. The only violations that can be used in this category are those under which all rights for appeal by the operator have expired. The dollar value is also increased by the number of all violations that have been issued during the past eighteen (18) months. Also, for each day that the operator went over his abatement date on all previous violations a dollar amount may be added.

If the operator demonstrates an inability to pay and is able to supply a notarized statement to that effect, the Program Director may lower the proposed assessment by an appropriate amount.

If the operator is considered an habitual violator the Commission may refer the matter to the Attorney General for assessment of civil penalties as well. The criteria for determining if an operator qualifies as an habitual violator is:

- the operator has three (3) similar violations issued in any six (6) or less inspections;
- has five (5) violation issued in any ten (10) for less inspections;
- has three (3) or more violation issued in any three (3) consecutive inspections.

Once the assessment has been prepared it is mailed to the operator via certified mail.

## **VIII. COMPLIANCE DATA MANAGEMENT**

### **A. DESCRIPTION OF THE DATA SYSTEMS**

Inspection dates and all enforcement issues are tracked utilizing computerized databases.

### **B. COMPLIANCE TRACKING ACTIVITIES AND RESPONSIBILITIES**

1. All compliance tracking is done from the central office.
2. Data entry is done on a weekly basis by the clerical staff who types the Inspection Reports or the enforcement items.
3. Tracking of inspection and enforcement activities is done by the IM Unit Chief of the I & E Section in addition to the individual inspectors responsible for these activities.

### **C. REGULAR AND SPECIAL COMPLIANCE REPORTS**

1. Contents and periodicity
  - a. The report of inspections conducted indicates: The names of the inspectors who did the inspection, the names of the mining company, the county in which the facility is located, the date of the inspection, the date the report is written. This information is in tabular form and can be retrieved for all mines and inspectors or for any facility operator, or inspection/completion date.
  - b. The "Enforcement Update" report is presented in a tabular form and can be retrieved in any fashion. This report is produced monthly for the Section Chief of the I & E Section and the inspection staff. The "Enforcement Update" report indicates the data referred to on Page: 8.1 Coal, C. of this manual.

D. GPS USAGE

1. The use of Global Positioning System equipment to determine the location of regulated facilities will be conducted in accordance with the department's policy; "Data Processing Standard Operating Procedures, Number 024.00, Latitude and Longitude Locational Accuracy". See Appendix \_\_\_ for an example of the policy and data entry forms.

**IX. RELATIONSHIP OF OTHER PROGRAM ACTIVITIES TO INSPECTION AND ENFORCEMENT****A. PLANNING**

From a program perspective, planning facilitates Inspection and Enforcement by ensuring that adequate personnel and budget resources are provided in order to accomplish the Inspection and Enforcement goals of the program. In terms of planning within the Land Reclamation Program, meetings between the Permitting Section staff and the I & E Section staff are held frequently in order to achieve continuity and an exchange of ideas and perspective between the two sections.

**B. PERMITTING**

Permitting is an areas of review and responsibility primarily assigned to the Permitting Section Staff. In order to insure that items within a permit which could negatively impact inspection and enforcement are identified and to provide insight gained from field inspections, the Inspection staff performs a review of permit approvals immediately after receipt of their field copy.

**C. ASSISTANCE ACTIVITIES**

Not applicable.

**D. ANALYTICAL OR RESEARCH ACTIVITIES**

Not applicable.

**E. OPERATOR TRAINING**

Not applicable.

**F. PUBLIC INFORMATION AND EDUCATION**

Publication of an annual report is the only mandatory dissemination of public information provided by the program.

G. IDENTIFICATION OF SPECIAL TRAINING NEEDS OF THE LAND RECLAMATION PROGRAM, INSPECTION AND ENFORCEMENT STAFF

Inspection and Enforcement is a field which requires a wide range of knowledge by the staff. New employees are required to have a background of education and experience in an environmental field. Even so, that background is likely to be more specialized than would be ideal for a person joining the Inspection and Enforcement staff. As such, unless an individual can demonstrate proficiency in the following areas, mandatory training will include but is not limited to the following:

1. Program orientation within the first six (6) months of employment;
2. Environmental Investigative Training within one (1) year of employment. This should include investigative field and inspection techniques, and sample collection and preservation;
3. Safety training within one (1) year of employment date;
4. Expert witness training within two (2) years of employment date;
5. Photography training within two (2) years of employment date;
6. Public relations/media training within two (2) years of employment data.

Other technical training will be provided as needs are identified and the training is available.

H. QUALITY CONTROL

All enforcement actions issued are reviewed by the IM Unit Chief as well as the I & E Section Chief. In addition, inspectors are encouraged to periodically accompany one another on inspections to achieve consistency, to request staff from the Permit Section accompany them periodically to provide expertise in their specialized fields, and the IM Unit Chief accompany the inspectors periodically to assess their individual inspection procedures and skills.

APPENDIX

### **III. LAWS AND REGULATION SUMMARY**

#### **A. LISTING OF COMPLETE SET OF LAWS AND REGULATIONS**

##### **1. Laws**

###### **Metallic Minerals Waste Management Act**

- 444.350. Citation of Law.
- 444.352. Definitions.
- 444.355. Powers of the Director.
- 444.358. Permit required, when.
- 444.360. Application for permit, contents.
- 444.362. Closure Plan, purposes, contents, review of.
- 444.365. Inspection-Maintenance Plan, purposes, contents, review of.
- 444.368. Financial Assurance Instrument required, form, amount, duration, use, forfeiture, release of. Confidential information not to be released.
- 444.370. Processing fee, Annual Permit fee, Metallic Minerals Waste Management fund, created, uses.
- 444.372. Permits, final approval by director, denial of permit, procedures.
- 444.375. Inspections, investigations, director to perform, civil penalties authorized, procedures, emergency situations, powers of director.
- 444.376. Administrative penalties, assessment, restriction, conference conciliation and persuasion, rules, payment, appeal, collection, disposition.
- 444.377. Hearings, Procedures.
- 444.378. Violations, Procedures to forfeit the Financial Assurance Instrument, Attorney General to assist, when.
- 444.380. Rules, Authority, Promulgation, Procedure.

##### **2. Regulations**

###### **A. Chapter 10-Permit and Performance Requirements for Metallic Mineral Waste Management Areas.**

- 10 CSR 45-1.010. General Organization
- 10 CSR 45-2.010. Definitions.



- 10 CSR 45-3.010. Administrative Penalties
- 10 CSR 45-6.010. Permit Applications-General
- 10 CSR 45-6.020. Closure Plan and Inspection Maintenance Plan-General Requirements.
- 10 CSR 45-6.030. Financial Assurance - Company Guarantee and Financial Test.
- 10 CSR 45-8.010. General.
- 10 CSR 45-8.020. Groundwater Protection.
- 10 CSR 45-8.030. Metallic Minerals Waste Management Structures.
- 10 CSR 45-8.040. Reclamation - Reuse.

B. SUMMARY OF LEGAL PROVISIONS SPECIFICALLY RELATED TO INSPECTION AND ENFORCEMENT

1. The Metallic Minerals Waste Management Act.
  - 444.355. Director has authority to make investigations and inspections to ensure compliance; cause to institute legal proceedings for injunction and other appropriate relief necessary to enforce the Act. Ensure that operator obtains permit and meets requirements of the Act for proper management of waste areas.
  - 444.358. Makes it unlawful to operate a Metallic Minerals Waste Management Area without a permit.
  - 444.368. Authority to proceed with forfeiture of the Financial Assurance Instrument if a violation is not corrected within ninety (90) days.
  - 444.375. Authority to conduct investigations to determine compliance. Authority to obtain search warrant if access denied. Authority to file suit for Injunction and Civil Penalties if unpermitted operation is discovered. Ability to offer settlement to resolve Civil Penalty. Authority to issue Notice of Violation if noncompliance is discovered. Authority to issue formal complaint for failure to abate a violation. Authority to revoke permit and issue cease and desist order for failure to resolve a formal complaint. Authority to issue a Cessation of Operations order if imminent danger to public safety or environment exists. May pursue Civil Suit to obtain compliance. Appeals.
  - 444.376. Authorizes issuance of Administrative Penalties and creation of rules for such. Authorizes court action to collect unpaid Administrative Penalties.

- 444.377. Outlines requirements for hearings and the procedures for such under the Act.
- 444.378. Outlines procedures for forfeiture of the Financial Assurance Instrument.
- 444.380. Authorizes promulgation of rules to implement the provisions of the Act.

2. Regulations

- a. 10 CSR 45-3.010 describes Administrative Penalties.
  - (1) Calculation of penalties.
  - (2) Service of assessments.
- b. 10 CSR 45-6.010 describes the Enforcement Section.
  - (1) Authorizes enforcement for non-compliances with permit.

C. CONFIDENTIALITY ISSUES

1. Sunshine Law, Revised 06-30-98 effective 9/28/87.
  - a. All issues relating to pending litigation and any written information from the Attorney General that gives legal advice or opinion.
  - b. Leasing, purchasing or sale of real estate where public knowledge might adversely affect the legal considerations.
  - c. Matters concerning the State Militia or the National Guard.
  - d. Meetings with union representatives or recognized employee organizations.
  - e. Meetings and public records relating to scientific and technological innovations in which an owner has a proprietary interest.
2. Complaints: All complaints where the complainant requests confidentiality shall be considered as confidential by the use of the procedure established by the department.
3. As required by section 444.368.7 RSMo (1996), if a company provides an alternative form of Financial Assurance in the form of a financial test, upon written request of the company, such information shall be confidential and not disclosed by the department.

#### **IV. INSPECTIONS**

##### **A. STATEMENT OF PURPOSE OF INSPECTION AND EXPECTATIONS OF THE PROGRAM REGARDING THE INSPECTION ACTIVITY**

The Inspection and Enforcement Section of the Land Reclamation Program is directed by state law and the Director of the Department of Natural Resources to provide inspection activities at Metallic Mineral Waste Management Areas in order to ensure that said operations are in compliance with state law and rules and permit conditions and to follow the established enforcement procedures when violations and non-compliances are detected.

##### **B. LISTING AND DISCUSSION OF VARIOUS INSPECTION ACTIVITIES BY CLASS 1, 2, 3 AND 4**

- Class 1: This level of inspection activity is regarded as a specific check of Waste Management activities in order to determine whether corrective measures have been taken by an operator to abate a Final Order or Notice of Violation. It may also involve the initial contact made at an unpermitted operation. Contact with the operator is always encouraged in this class of inspection, unless other arrangements are made with the operator prior to the inspection or if the operator isn't available. It may not involve an on-site inspection but could be in the form of aerial or side of the road observations.
- Class 2: This level of inspection involves an on-site investigation of waste management activities with the operator, if possible, and review of the permit and files to ensure compliance. The inspection may incorporate the initiation or abatement of an enforcement action. It may also be the focus of a complaint response where only certain aspects of the operation are checked.
- Class 3: This level of inspection involves a thorough on-site evaluation of the waste management activities and reclamation activities along with a review of all permits, files, law, and applicable regulations. The inspector should also check for the off-site effects of the waste disposal operation. The operator should be given prior notification of the inspection and be present during the inspection. This level of inspection could also consist of an extensive, thorough investigation and development of a department-wide

recommendation to the director in response to an operator's request for a release of bond from a waste management permit or a portion of the permitted area. This would involve the participation of several other departmental agencies which are directly related to the waste management permit through their individual environmental permits and laws.

Class 4: Not applicable.

C. DISCUSSION OF SAMPLING EXPECTATIONS FOR CLASS 1, 2, 3 AND 4 INSPECTIONS

Class 1, 2, 3 and 4:

1. Water Sampling: Sampling is necessary during bond release inspections and during compliance inspections to be assured that the water quality at least meets the pH limits as specified in the operator's N.P.D.E.S. permit. In addition, a grab sample may be taken for analysis if water quality in other respects is suspected.
2. Soil Sampling: In the case where tailings or other waste material has been covered with a soil material to promote revegetation, a sample of the cover material may be taken to ensure that the proper nutrients are present to support revegetation or taken if problems occur in the revegetation process to determine what soil ammendments are lacking.
3. Vegetation Sampling: In addition to the sampling described above, this level of inspection would also require that the types and density of the established vegetation be sampled to ensure that the proper vegetation is in place to support the approved land use. This sampling would also ensure that the density of the approved vegetation is sufficient to control erosion and to support the approved land use.
4. Not applicable.

D. DETAILED DESCRIPTION OF THE MINIMUM CONTENTS OF CLASS  
1, 2, 3 AND 4 INSPECTION REPORTS

All inspection reports shall have a cover sheet attached which lists the following information:

- company name
- permit number
- inspection date
- date of previous inspection
- company personnel present
- enforcement actions taken as a result of the inspection
- weather conditions
- type of operation
- site name and county
- type of inspection
- standards that were found in violation
- list of performance standards
- date report written
- name and signature of inspector and date signed

Class 1: The report shall be in letter format and involve a detailed discussion of the operator's compliance with the performance standards checked. It may involve a check of the operator's compliance with the abatement measures listed in an enforcement action. The findings of the inspection shall be detailed and summarized for the operator with a recommendation for further action and/or notification of the course of action that the Land Reclamation Program will pursue as a result of the findings.

Class 2: The report shall be in letter format and involve the items listed in the Class 1 Inspection Report. If the investigation involves a response to a complaint, the specific aspects of the complaint will be emphasized. A copy of the report will be sent to the complainant as well as the operator.

Class 3: The report shall be in letter format and involve the items listed in the Class 1 Inspection Report. The details of all aspects of the operation shall be described in the report along with any

violations that have been found and the accompanying enforcement actions taken. All supporting evidence, including samples taken, shall be described in the report along with any other observations of significance. This report may also contain a recommendation to the Department Director and operator as to the release of the posted Financial Assurance on the Waste Management Area or a portion of the area.

Class 4: Not applicable.

E. INSPECTION PROCEDURES, INCLUDING SAFETY CONSIDERATIONS

The mine operator shall be notified prior to the inspection unless it is necessary to check for non-compliances that may be concealed otherwise. The inspector shall present proper credentials upon contact with the mine operator. The mine operator shall accompany the inspector or give permission to do so unaccompanied. If the site is being operated without a permit the inspector shall obtain the name and address of the operator before proceeding, if possible. If the operator or landowner refuses access to the inspector of any Waste Management Area or area where there is supporting evidence that waste disposal is being or has been conducted, the inspector shall contact the Land Reclamation Program office. The inspector's supervisor, the Section Chief or the Program Director will contact the Attorney General's Office for a suitably restricted search warrant. Upon receipt of the search warrant a request shall be made of the County Sheriff's Office to accompany the inspector on the inspection of the area.

The inspector shall inspect all portions of the waste disposal area where statutory authority extends, take all samples, photos and other evidence along with pertinent field notes.

The operator will be informed of the results of the inspection following completion before the inspector leaves the site. If the operator is not present, he shall be informed of the results of the inspection over the phone and with a copy of the inspection report.

The company's field file shall be carried by the inspector during the inspection for reference.

The following safety equipment will be carried and used as appropriate: steel-toe

shoes, hard hat, safety glasses, and appropriate clothing. The inspector should also attend safety training in order to be aware of the hazards present at a mine site. Dangerous or careless behavior will not be tolerated and will result in disciplinary action.

F. INSPECTION FORMS AND REPORTS

All Inspection Reports will be completed within ten (10) days of the inspection.

The reports will not be reviewed unless prepared by a probationary employee. All inspection reports shall be in narrative form.

LRP

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## **V. SURVEILLANCE**

Not applicable.



## **VI. CONFERENCE CONCILIATION AND PERSUASION**

### **A. DESCRIPTION OF THE CONCEPT, STATEMENT OF PURPOSE AND THE PROGRAM'S EXPECTATIONS**

The concept of conference conciliation and persuasion involves administrative efforts on the part of the Land Reclamation Program to convince a permitted operator to take the necessary steps to abate or remedy a violation of the law, regulations, or condition of the permit.

Section 444.375.4 states: "If an investigation shows that a Metallic Minerals Waste Management Area for which a permit has been issued is being conducted contrary to or in substantial violation of any provision of sections 444.350 to 444.380 or any rule or regulation promulgated pursuant to sections 444.350 to 444.380, the Director may by conference, conciliation or persuasion endeavor to eliminate the violation."

The statutes at 444.375.3 do not allow for the use of conference, conciliation or persuasion if a permit has not been issued to the operator of a Waste Disposal Area. The statute states: "If the investigation shows that waste disposal is being or is going to be conducted or that a waste management area is being operated without a permit in violation of this law, the Director shall request the Attorney General file suit in the name of the State of Missouri for Injunction and Civil Penalties not to exceed one-thousand dollars (\$1,000.00) per day from the date of the filing of such action for each day in addition to any other remedies provided by law as the court may deem proper.

The purpose of conference, conciliation and persuasion is to provide an operator of a Waste Management Area with the opportunity to correct a problem that may become a violation of the law or rules in a manner that is acceptable to the department and the operator.

### **B. VARIOUS ACTIVITIES WHICH CONSTITUTE CONFERENCE CONCILIATION AND PERSUASION**

Conference, conciliation, and persuasion is a process of verbal or written communications between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department in order to resolve the non-compliance through negotiations (444.352.3 RSMo Supp. 1995).

Conference, conciliation and persuasion can also involve the Informal Conference that the operator can request after a notice of violation is written, or any modification of the abatement measures or schedules, and any correspondence or conferences with the Land Reclamation Program personnel or the Attorney General's Office.

C. RECORD KEEPING RELATED TO CONFERENCE CONCILIATION AND PERSUASION

All pertinent memos, telephone conversation logs, field inspection reports, or meeting records between field personnel, Land Reclamation Program and Department of Natural Resources officials and operators and their representatives shall be placed in the company's permit files and inspector's field files. All pertinent material shall also be copied to the Attorney General's Office, as appropriate.

D. TIME LIMITS FOR VARIOUS FORMS OF CONFERENCE, CONCILIATION AND PERSUASION BEFORE ENFORCEMENT ACTION IS REQUESTED

1. Operations without a permit:

In accordance with statute 444.375.3., if an investigation shows that a Waste Management Area is being operated without a permit in violation of the law, the director shall request the Attorney General file suit in the name of the State of Missouri for Injunction and Civil penalties. There are no provisions to allow the use of conference, conciliation, or persuasion in the case of an unpermitted waste disposal operation.

2. Operations that are permitted:

The rules at 10CSR 45-3.010.(3) expressly mandate the use of conference, conciliation, and persuasion prior to the issuance of a violation or administrative penalty with regard to operations that possess a valid state operating permit. According to this rule, conference, conciliation, and persuasion shall consist of at least two (2) communications between the alleged violator and the department in an effort to resolve the non-compliance separated by no fewer than ten (10) calendar days.

Communications may be either verbal or written and may consist of meetings, reports, correspondence or telephone conferences. The goal of the communications shall be to encourage negotiations that will result in a plan to achieve compliance and ultimately to eliminate the violation.

If efforts made through the conference, conciliation, and persuasion process fail to arrive at a mutually agreeable plan to resolve the non-compliance, and the violation remains uncorrected, enforcement actions are then requested from the department director as appropriate.

## **VII. ENFORCEMENT**

### **A. STATEMENT OF PURPOSE AND EXPECTATIONS OF THE LAND RECLAMATION PROGRAM REGARDING THE ENFORCEMENT ACTIVITY**

1. The purpose of the use of enforcement activity in the Land Reclamation Program under "The Metallic Minerals Waste Management Act", sections 444.350 to 444.380, is to gain compliance and reduce or eliminate any obvious threats to public health, safety or livelihood.
2. It is the goal of the Land Reclamation Program to provide a level playing field for all operators in the state by fairly and equitably enforcing the state law and regulations.

### **B. ENFORCEMENT PROCEDURES**

1. Criteria for Issuing Notices of Violation:
  - a. Whom: Any authorized representative of the Department Director that has been properly trained and deemed qualified by the Chief of the Inspection and Enforcement Section.
  - b. What: Any notice of violation can be issued by any authorized representative of the Department Director after approval by the Department Director.
  - c. When: Whenever a notice of violation is detected at a permitted waste management area the inspector shall return to the office and discuss the matter with his supervisor and subsequently the Inspection and Enforcement Section Chief and Program Director. If the operator fails to respond satisfactorily to efforts made by the department to resolve the violation through conference, conciliation, and persuasion as discussed in chapter VI of this manual, a recommendation is prepared by the supervisor, through the Inspection and Enforcement Section Chief and the Program Director to the Department Director to initiate an enforcement action or actions. The Department Director will decide if a notice of violation is required to be issued at that time.

- d. Where: Issuance can be completed to the mine site business address, or to a registered agent.
- e. Why: The law and regulations dictate the violation to be issued by the Department Director following the use of conference, conciliation, and persuasion.
- f. How: Issuance is completed by Certified Mail or hand delivery for all enforcement actions.
- g. To Whom: All enforcement actions are issued to the permittee, and can be accepted by any authorized representative of the company.

2. Enforcement Action Request Procedures:

- a. When an inspector detects a violation at a permitted mine site and subsequent to discussions concerning a recommendation to the Department Director, the following procedure is used to determine if a violation will be prepared.
- b. Minor violations as defined in the Act will first be attempted to be resolved through the use of conference, conciliation, and persuasion. This process would generally be limited to a timeframe of between thirty (30) to ninety (90) days. A minor violation is one that possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor. Failure on the part of the operator to correct the deficiency, however minor, as a result of the process of conference, conciliation, and persuasion will result in a recommendation to the Department Director to upgrade the matter to a significant violation.
- c. Significant violations are those which involve a substantial or significant risk of an adverse effect upon humans or the environment due to exposure to metallic mineral waste or waste constituents or has or may have a substantial or significant adverse effect on the purposes of or procedures for implementing the Act.
- d. Operations without a permit who are found to be in violation will be subject to an injunction as requested of the Attorney General's Office by the Department Director.

### 3. Administrative Enforcement Activities:

- a. Notice of Violation: This is a document that notifies the operator that a law, rule, or a condition of the permit has been violated. A Notice of Violation is issued whenever there is a violation that has been prioritized as significant by the Department Director and no previous enforcement action has been issued addressing the situation. The inspector must issue the Notice of Violation in writing signed by himself along with a standard cover letter signed by the Department Director. These items must be clearly and concisely included:

- Nature of the violation;
- The law, rule or permit violated;
- Remedial action required, including any interim steps, and a time frame for abatement;
- A description of the portion of the site or area to which the Notice of Violation applies.
- A map which clearly identifies the location of the area or areas to which the Notice of Violation applies.
- The operator's rights of appeal under the Metallic Minerals Waste Management Act.

The inspector should ensure that all parts are readable and understandable.

- b. Formal Complaint: A formal complaint is issued by the Department Director if the operator has not abated the Notice of Violation within the time period specified. The Department Director will prepare the formal complaint and it shall be sent via Certified Mail to the operator under cover letter from the Department Director. These items must be included:

- A detailing of the violation(s) found by the inspection staff;
- A citation of the rule, condition of the permit, or the provision of sections 444.350 to 444.380 alleged to have been violated;
- A statement of the manner in, and the extent to, which the person is alleged to be in violation and;
- The penalty to be assessed.

The formal complaint shall be accompanied by a Notice from the Department Director informing the operator of the filing of the formal complaint and notifying him of his right to a hearing.

- c. Permit Revocation: The Department Director has the right to temporarily suspend or permanently revoke a permit for:
  - failure to take corrective actions as directed by a Notice of Violation within ninety (90) days;
  - the operator's failure to replace a surety bond or other form of Financial Assurance to the satisfaction of the Department Director;
  - the operator's failure to allow entry or access by the Department Director or authorized representative in order to conduct investigations.
  - the operator's failure to abate a formal complaint to the satisfaction of the Department Director.
- d. Bond Forfeiture: The Director may forfeit the operator's Financial Assurance following the revocation of the waste disposal permit.
- e. Injunction: When an operator has failed to obtain a permit to operate a waste disposal area, the director may request the Attorney General's Office to file for an Injunction to halt all disposal operations.
- f. Appeals and Hearings: Once an enforcement action has been issued an operator has appeal rights. The operator that is in possession of a valid permit has fifteen (15) days after receipt of a Notice of Violation to appeal that action.

There are two types of appeals - administrative and judicial. Within the administrative appeals are informal conferences and formal hearings.

- 1. Administrative appeals: these involve Informal Conferences and formal hearings.
  - a. Informal Conferences: An Informal Conference is held after a written request is received by the Director within the fifteen

(15) day time period following the issuance of a Notice of Violation. The meeting is usually taped by the Department Director, who uses the tape recording for reference and not as evidence for any future hearings or court cases related to the enforcement action. Attorneys are usually not present.

The operator has the opportunity to contest the fact of the violation. The Department Director listens to testimony by the staff, the inspector and others who have pertinent information to present. The operator will also present evidence as well as be allowed to question the staff on their presentations. The Department Director will question any and all parties present concerning the facts of the case.

The Department Director has thirty (30) days to render a decision. He may confirm, modify or vacate the Notice of Violation. The Department Director's decision will be sent in writing to the operator via Certified Mail.

- b. A formal hearing may be requested by the operator if requested within fifteen (15) days of receipt of a formal complaint.

When a request for a hearing is received the Director may utilize a hearing officer to conduct the hearing. A court reporter is used to transcribe all testimony and tag all evidence. All hearings are a matter of record and considered a contested case. Attorneys are present and the hearing officer may take oral argument, and examine the testimony of all witnesses and evidence.

The director shall make the final decision as to the results of the hearing and shall notify the operator of his decision by Certified Mail. All final orders of the director are subject to judicial review, which shall not become available until all administrative remedies are exhausted as provided by Chapter 536, RSMo.



2. Judicial Appeal: If the operator is not satisfied with the results of the administrative process, appeal is available as per the provisions of The Metallic Minerals Waste Management Act and Chapter 536, RSMo. governing the administrative procedures.

4. Attorney General Referral:

- a. Injunctions: This referral is made to the Attorney General's Office when an operator has failed to obtain a permit to operate a Waste Management Area or fails to comply with any final order of the director. Referral is made from the director to the Attorney General through the staff of the Land Reclamation Program.
  - b. Permit Revocation and Bond Forfeiture: Referral is made to the Attorney General after the director has rendered his final decision to revoke a permit and forfeit the operator's performance bond. The Attorney General will be contacted by the Department Director to request they send a demand letter to the bonding entity. The Attorney General will handle any Certificates of Deposit, Letters of Credit and Surety Bond forms, and will accept the payment check from the bonding entity. These will be forwarded to the Department Director for deposit upon receipt by the Attorney General.
  - c. Appeals: This referral is made when any enforcement action issued is formally or judicially appealed by an operator.
  - d. Opinions: This referral is made when the staff or director needs an interpretation of a statute, rule or policy.
5. Assessments: After a Notice of Violation is issued a proposed assessment is prepared. The range of the dollar amount is from zero (0) to one-thousand dollars (\$1,000.00). The penalty is assessed for each day that the violation has existed.

The criteria for assessing a Notice of Violation involves establishing a basic dollar figure using a matrix or table. Additions or subtractions are made to the initial dollar amount based upon: good faith efforts; degree of culpability; and an operator's previous history of non-compliance. In addition to the basic assessment amount, additional factors that are to be considered include: economic benefit to the operator for non-compliance and certain case specific factors such

as the ability to pay the proposed assessment and, in exchange for a lowering of the assessment, the agreement of the operator to undertake the completion of environmentally beneficial projects.

The matrix or table involves use of the criteria for determining potential for harm and the extent of the deviation from the requirement. The potential for harm involves applying a numerical value (one (1) being the least serious, to three (3) being the most serious) to the parameters of:

- risk of exposure of human or environmental receptors
- potential seriousness of exposure
- harm to the regulatory program

The point total of the above is totalled and divided by three. The numerical value obtained is assigned a dollar amount on the matrix or table.

The matrix value for extent of the deviation is determined by whether the violation represents a major, moderate or minor deviation from the requirement of the rule or law.

Good faith is considered in reducing the amount of the proposed assessment if the operator can demonstrate that efforts were made to eliminate the non-compliance prior to detection by the department. Any efforts made to eliminate the non-compliance following detection by the department are not grounds for decreasing the proposed penalty assessment.

Under the degree of culpability the dollar value may be raised or lowered based upon a demonstrable presence or absence of an operator's negligence in preventing the non-compliance. In no case shall a lack of knowledge of the Act be considered a basis for reduced culpability.

For the history of non-compliance component, the department may increase the amount of the proposed assessment based upon an operator's previous enforcement record and particularly for violations of the same or a similar nature. An habitual violator is defined as one who operates a Waste Management Area that fails to comply with the provisions of the Act for a period of time that exceeds twelve (12) consecutive months or who demonstrates a recurring pattern of non-compliance followed by compliance during a period of at least eighteen (18) consecutive months.

Each of the above three adjustment factors has equal weighting with respect to the dollar amount that is used in conjunction with the basic matrix figure dollar amount. Each may be used to increase or decrease the basic matrix amount by one-third ( $1/3$ ) of the amount between the midpoint and either the greater or lesser extreme of the range within the matrix cell.

If the operator demonstrates an inability to pay and is able to supply a notarized statement to that effect, the Department Director may lower the proposed assessment by an appropriate amount.

Once the assessment has been prepared it is mailed to the operator via Certified Mail.

## **VIII. COMPLIANCE DATA MANAGEMENT**

### **A. DESCRIPTION OF THE DATA SYSTEMS**

Inspection dates and all enforcement issues are tracked utilizing the database software that has been approved by the department.

### **B. COMPLIANCE TRACKING ACTIVITIES AND RESPONSIBILITIES**

1. All compliance tracking is done from the central office.
2. Data entries are made on a weekly basis by either of the Clerk Typist III's who are responsible for the entry of data from inspection reports or the enforcement items.
3. Tracking of inspection and enforcement activities is done by the supervisor of the Metallic Minerals Unit of the Inspection and Enforcement Section in addition to the chief of the Inspection and Enforcement Section and the individual inspectors responsible for the activities.

### **C. REGULAR AND SPECIAL COMPLIANCE REPORTS**

1. Contents and Periodicity
  - a. The report of inspections conducted indicates: The names of the inspectors who did the inspection, the names of the mining company, the county in which the facility is located, the date of the inspection, and the date the report is written. This information is in tabular form and can be retrieved for all mines and inspectors or for any facility operator, or inspection/completion date.
  - b. The "Enforcement Update" report is presented in a tabular form and can be retrieved in any fashion. This report is produced monthly for the chief of the Inspection and Enforcement Section, the supervisor of the Metallic Minerals Unit, and the inspection staff in general. The "Enforcement Update" report contains the data referred to on Page: 8.1 Coal, C. of this manual.

D. GPS USAGE

1. The use of Global Positioning System equipment to determine the location of regulated facilities will be conducted in accordance with the department's policy:

AData Processing Standard Operating Procedures, Number 024.00, Latitude and Longitude Locational Accuracy.≡ See appendix \_\_\_ for an example of the policy and data entry forms.

**IX. RELATIONSHIP OF OTHER PROGRAM ACTIVITIES TO INSPECTION AND ENFORCEMENT****A. PLANNING**

From a program perspective, planning facilitates Inspection and Enforcement by ensuring that adequate personnel and budget resources are provided in order to accomplish the Inspection and Enforcement goals of the program. In terms of planning within the Inspection and Enforcement Section, meetings between the inspection and supervisory staff and the section chief, Program Director, directors of other programs involved and the Division Director are held as necessary to ensure coordination among the programs and to encourage the exchange of ideas and communication between all parties with an interest in the Metallic Minerals Waste Management Act.

**B. PERMITTING**

Permitting is an area of review and responsibility that involves a multi-program effort within the division as well as review and approval from the Division of Geology and Land Survey. Each application for waste disposal and management is reviewed by the agencies specified in the Act and upon determination that the application is complete and adequate to meet the requirements of the Act, the permit is issued to the applicant.

Further review of each permit application is conducted every five (5) years after issuance to ensure that the application remains adequate with respect to the requirements of the Act and the laws of each agency involved.

**C. ASSISTANCE ACTIVITIES**

Not applicable.

**D. ANALYTICAL OR RESEARCH ACTIVITIES**

Not applicable.

**E. OPERATOR TRAINING**

Not applicable.

F. PUBLIC INFORMATION AND EDUCATION

Publication of an Annual Report is the only mandatory dissemination of public information provided by the program.

G. IDENTIFICATION OF SPECIAL TRAINING NEEDS OF THE LAND RECLAMATION PROGRAM, INSPECTION AND ENFORCEMENT STAFF

Inspection and Enforcement is a field which requires a wide range of knowledge by the staff. New employees are required to have a background of education and experience in an environmental field. Even so, that background is likely to be more specialized than would be ideal for a person joining the Inspection and Enforcement staff.

As such, unless an individual can demonstrate proficiency in the following areas, mandatory training will include but is not limited to the following:

1. Program orientation within the first six (6) months of employment;
2. Environmental Investigative Training within one year of employment. This should include investigative field and inspection techniques, and sample collection and preservation;
3. Safety training within one year of employment date;
4. Technical writing (including report writing) within one year of employment;
5. Expert witness training within two years of employment date;
6. Photography training within two years of employment date;
7. Public relations/media training within two years of employment data.

Other technical training will be provided as needs are identified and the training is available.

H. QUALITY CONTROL

All enforcement actions issued are reviewed by the supervisor of the Metallic Minerals Unit as well as the Inspection and Enforcement Section Chief and Program Director. All enforcement actions are prepared for the Department Director's review prior to issuance and are accompanied by a cover letter signed by the Department Director which explains the enforcement action and the operator's rights for review and appeal.

In addition, the supervisor of the unit and the chief of the Inspection and Enforcement Section accompany the inspectors periodically to assess their individual inspection procedures and skills.

**MISSOURI DEPARTMENT OF NATURAL RESOURCES—LAND RECLAMATION PROGRAM  
COAL MINE INSPECTION REPORT COVER SHEET**

COMPANY \_\_\_\_\_ MINE \_\_\_\_\_  
 INSPECTION DATE \_\_\_\_\_ LAST INSPECTION DATE \_\_\_\_\_  
 COMPANY REPRESENTATIVES \_\_\_\_\_ OSMRE REPRESENTATIVES \_\_\_\_\_  
 WEATHER CONDITIONS \_\_\_\_\_ DATE REPORT WRITTEN \_\_\_\_\_

UNITS	TYPE*	PERFORMANCE STDS CHECKED	UNITS	TYPE*	PERFORMANCE STDS CHECKED
1. _____			6. _____		
2. _____			7. _____		
3. _____			8. _____		
4. _____			9. _____		
5. _____			10. _____		

\*C = COMPLETE INSPECTION

\*P = PARTIAL INSPECTION

\*A = AERIAL INSPECTION

**PERFORMANCE STANDARDS CHECKED**

- A. 10 CSR 40-3.010 SIGNS AND MARKERS
- B. 10 CSR 40-3.020 REQUIREMENTS FOR CASING AND SEALING OF DRILLED HOLES
- C. 10 CSR 40-3.030 REQUIREMENTS FOR TOPSOIL REMOVAL, STORAGE AND REDISTRIBUTION
- D. 10 CSR 40-3.040 REQUIREMENTS FOR PROTECTION OF THE HYDROLOGIC BALANCE
- E. 10 CSR 40-3.050 REQUIREMENTS FOR THE USE OF EXPLOSIVES
- F. 10 CSR 40-3.060 REQUIREMENTS FOR THE DISPOSAL OF EXCESS SPOIL
- G. 10 CSR 40-3.070 REQUIREMENTS FOR THE PROTECTION OF UNDERGROUND MINING
- H. 10 CSR 40-3.080 REQUIREMENTS FOR THE DISPOSAL OF COAL PROCESSING WASTE
- I. 10 CSR 40-3.090 REQUIREMENTS FOR THE PROTECTION OF AIR RESOURCES
- J. 10 CSR 40-3.100 REQUIREMENTS FOR THE PROTECTION OF FISH, WILDLIFE, AND RELATED ENVIRONMENTAL VALUES, AND PROTECTION AGAINST SLIDES AND OTHER DAMAGE
- K. 10 CSR 40-3.110 BACKFILLING AND GRADING REQUIREMENTS
- L. 10 CSR 40-3.120 REVEGETATION REQUIREMENTS
- M. 10 CSR 40-3.130 POSTMINING LAND USE REQUIREMENTS
- N. 10 CSR 40-3.140 ROAD AND OTHER TRANSPORTATION REQUIREMENTS
- O. 10 CSR 40-3.150 REQUIREMENTS FOR COAL RECOVERY, LAND RECLAMATION AND CESSATION OF OPERATIONS
- P. 10 CSR 40-3.160 COAL EXPLORATION REQUIREMENTS
- Q. 10 CSR 40-3.170 AUGER MINING REQUIREMENTS
- R. 10 CSR 40-4.030 OPERATIONS ON PRIME FARMLAND
- S. 10 CSR 40-6.090 OWNERSHIP AND CONTROL
- T. OTHER: \_\_\_\_\_

**ENFORCEMENT ACTIONS****PERFORMANCE STANDARD(S) VIOLATED****ABATEMENT DUE DATE(S)**

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_



MISSOURI DEPARTMENT OF NATURAL RESOURCES  
LAND RECLAMATION COMMISSION  
P.O. BOX 176  
JEFFERSON CITY, MO 65102  
(573) 751-4041

NOTICE OF VIOLATION No. \_\_\_\_\_

DATE \_\_\_\_\_

NOTICE ☐  
MODIFICATION ☐  
TERMINATION ☐

TO THE FOLLOWING PERMITTEE OR OPERATOR:

NAME \_\_\_\_\_ MINE \_\_\_\_\_

COUNTY \_\_\_\_\_ ☐ SURFACE ☐ UNDERGROUND ☐ OTHER \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_

STATE PERMIT NO. \_\_\_\_\_ MSHA I.D. NO. \_\_\_\_\_

DATE OF INSPECTION: \_\_\_\_\_

TIME OF INSPECTION: FROM: \_\_\_\_\_ ☐ A.M. TO \_\_\_\_\_ ☐ A.M.  
\_\_\_\_\_ ☐ P.M. TO \_\_\_\_\_ ☐ P.M.

NAME OF OPERATOR (IF OTHER THAN PERMITTEE) \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

UNDER THE AUTHORITY OF THE SURFACE COAL MINING LAW (Sections 444.800 THROUGH 444.970, RSMo 1994), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE LAND RECLAMATION COMMISSION HAS CONDUCTED AN INSPECTION OF THE ABOVE MINE ON THE ABOVE DATE AND HAS FOUND VIOLATION(S) OF THE LAW, THE RULES, OR REQUIRED PERMIT CONDITION(S) LISTED IN THE ATTACHMENT(S). THIS NOTICE CONSTITUTES A SEPARATE NOTICE OF VIOLATION FOR EACH VIOLATION LISTED.

YOU MUST ABATE EACH OF THESE VIOLATIONS WITHIN THE DESIGNATED ABATEMENT TIME. YOU ARE RESPONSIBLE FOR DOING ALL WORK IN A SAFE AND WORKMANLIKE MANNER.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE FINDS THAT CESSATION OF MINING IS ☐ IS NOT ☐ EXPRESSLY OR IN PRACTICAL EFFECT REQUIRED BY THIS NOTICE. FOR THIS PURPOSE "MINING" MEANS EXTRACTING COAL FROM THE EARTH OR A WASTE PILE AND TRANSPORTING IT WITHIN OR FROM THE MINE SITE.

THIS NOTICE SHALL REMAIN IN EFFECT UNTIL IT IS MODIFIED, TERMINATED, OR VACATED BY WRITTEN NOTICE OF THE COMMISSION OR DIRECTOR. THE TIME FOR ABATEMENT MAY BE EXTENDED BY COMMISSION OR DIRECTOR FOR GOOD CAUSE, IF A REQUEST IS MADE WITHIN A REASONABLE TIME BEFORE THE END OF THE ABATEMENT PERIOD.

AUTHORIZED REPRESENTATIVE \_\_\_\_\_ I.D. NO. \_\_\_\_\_ SIGNATURE \_\_\_\_\_

PERSON SERVED (PRINT NAME) \_\_\_\_\_ TITLE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

NOTICE OF VIOLATION NO. \_\_\_\_\_

NATURE OF VIOLATION: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROVISION(S) OF THE LAW, RULES, OR PERMIT VIOLATED: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

PORTION OF THE OPERATION TO WHICH NOTICE APPLIES: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REMEDIAL ACTION REQUIRED (INCLUDING INTERIM STEPS, IF ANY): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

TIME FOR ABATEMENT (INCLUDING TIME FOR INTERIM STEPS, IF ANY): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



P.O. Box 176  
Jefferson City, MO 65102  
(314) 751-3241

PLACE OF VIOLATION NUMBER		DATE		<input type="checkbox"/> NOTICE <input type="checkbox"/> MODIFICATION <input type="checkbox"/> TERMINATION	
TO THE FOLLOWING PERMITTEE OR OPERATOR					
NAME		MINE	<input type="checkbox"/> SURFACE <input type="checkbox"/> UNDERGROUND <input type="checkbox"/> OTHER		
COUNTY	TELEPHONE NUMBER	MAILING ADDRESS			
STATE PERMIT NUMBER		MSHA I.D. NUMBER		DATE OF INSPECTION	
TIME OF INSPECTION FROM _____ <input type="checkbox"/> A.M. TO _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M. TO _____ <input type="checkbox"/> P.M.					
NAME OF OPERATOR (IF OTHER THAN PERMITTEE)		MAILING ADDRESS			

UNDER THE AUTHORITY OF THE SURFACE COAL MINING LAW (SECTION 444.800 THROUGH 444.940, RSMo, (SUPP. 1979)), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE LAND RECLAMATION COMMISSION HAS CONDUCTED AN INSPECTION OF THE ABOVE MINE ON THE ABOVE DATE AND HAS FOUND VIOLATION(S) OF THE LAW, THE RULES, OR REQUIRED PERMIT CONDITION(S) LISTED IN THE ATTACHMENT(S). THIS NOTICE CONSTITUTES A SEPARATE NOTICE OF VIOLATION FOR EACH VIOLATION LISTED.

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THIS NOTICE SHALL REMAIN IN EFFECT UNTIL IT IS MODIFIED, TERMINATED, OR VACATED BY WRITTEN NOTICE OF THE COMMISSION OR DIRECTOR FOR GOOD CAUSE, IF A REQUEST IS MADE WITHIN A RESPONSIBLE TIME BEFORE THE END OF THE ABATEMENT PERIOD.

AUTHORIZED REPRESENTATIVE (PRINT NAME)	I.D. NUMBER	SIGNATURE
PERSON SERVED (PRINT NAME)	TITLE	SIGNATURE

## **OPERATORS RIGHTS OF REVIEW**

The Missouri Land Reclamation laws in 444.895.1.(1), RSMo (Supp. 1979), allow a permittee issued a notice or order or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, to apply to the Land Reclamation Commission for review of that notice or order of any modification, vacation, or termination of such notice or order. The application, to be valid, must be received by the Land Reclamation Commission within thirty (30) days of receipt of the notice or order.

The Director of the Land Reclamation Program also allows the opportunity to have an informal conference prior to, or in lieu of, a Commission hearing. The informal conference must be requested within thirty (30) days of receipt of the notice or order.

If the results of the informal conference are still unsatisfactory, then the operator or affected party may request a review of the notice or order. The request for the hearing before the Land Reclamation Commission must be requested within thirty (30) days of receipt of the written results of the informal conference.

The operator and any interested parties shall be given written notice of the time and place of the hearing at least five (5) days prior to its being held. Any such hearing shall be a contested case.

The filing of an application for review shall not operate as a stay of any notice or order.

Upon completion of the hearing, the commission shall make findings of fact and conclusions of law and shall issue a written decision, either affirming, modifying, vacating or terminating the notice or order.

According to 444.900, RSMo (Supp. 1979) all final decisions or orders of the commission shall be subject to judicial review as provided in Chapter 536, RSMo. However, judicial review shall not be available until all administrative remedies are exhausted.

PROVISION(S) OF THE LAW, RULE OR PERMIT VIOLATED

PORTION OF THE OPERATION TO WHICH NOTICE APPLIES

REMEDIAL ACTION REQUIRED (INCLUDING INTERIM STEPS, IF ANY)

TIME FOR ABATEMENT (INCLUDING TIME FOR INTERIM STEPS, IF ANY)

## **OPERATORS RIGHTS OF REVIEW**

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**MAP**

## **OPERATORS RIGHTS OF REVIEW**

The Missouri Land Reclamation laws in 444.895.1.(1), RSMo (Supp. 1979), allow a permittee issued a notice or order or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, to apply to the Land Reclamation Commission for review of that notice or order of any modification, vacation, or termination of such notice or order. The application, to be valid, must be received by the Land Reclamation Commission within thirty (30) days of receipt of the notice or order.

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COAL MODIFICATION  
NOTICE OF VIOLATION NO. \_\_\_\_\_

DATE OF REQUEST \_\_\_\_\_

DATE OF INSPECTION \_\_\_\_\_

TIME OF INSPECTION: FROM      A.M.      TO      A.M.  
   P.M.      TO      P.M.

REASON FOR MODIFICATION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NEW AFFIRMATIVE OBLIGATIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE OF NEW ABATEMENT: \_\_\_\_\_

SUPERVISOR'S EVALUATION OF A REQUEST BEYOND 90 DAYS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REGULATION REFERENCED \_\_\_\_\_ 1 2 3 4 5 (CIRCLE ONE)

SIGNATURE OF INSPECTOR: \_\_\_\_\_ ID#. \_\_\_\_\_ DATE \_\_\_\_\_

SUPERVISOR/CHIEF SIGNATURE: \_\_\_\_\_ DATE \_\_\_\_\_

SIGNATURE OF PERSON SERVED WITH NOTICE: \_\_\_\_\_ DATE \_\_\_\_\_

## TERMINATION

NOTICE OF VIOLATION NO.# \_\_\_\_\_

DATE OF ABATEMENT: \_\_\_\_\_

DATE OF INSPECTION: \_\_\_\_\_

TIME OF INSPECTION: FROM \_\_\_\_\_ A.M. TO \_\_\_\_\_ A.M.  
\_\_\_\_\_ P.M. TO \_\_\_\_\_ P.M.REASON FOR TERMINATION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAME OF INSPECTOR: \_\_\_\_\_ I.D. NO. \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE \_\_\_\_\_

\_\_\_\_\_  
PERSON SERVED WITH NOTICE\_\_\_\_\_  
TITLE\_\_\_\_\_  
SIGNATURE\_\_\_\_\_  
DATE

## VACATION

NOTICE OF VIOLATION NO.# \_\_\_\_\_

DATE OF INSPECTION: \_\_\_\_\_

TIME OF INSPECTION: FROM \_\_\_\_\_ A.M. TO \_\_\_\_\_ A.M.  
\_\_\_\_\_ P.M. TO \_\_\_\_\_ P.M.REASON FOR VACATION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAME OF INSPECTOR: \_\_\_\_\_ I.D. NO. \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE \_\_\_\_\_

\_\_\_\_\_  
PERSON SERVED WITH NOTICE\_\_\_\_\_  
TITLE\_\_\_\_\_  
SIGNATURE\_\_\_\_\_  
DATE

MISSOURI DEPARTMENT OF NATURAL RESOURCES  
 LAND RECLAMATION COMMISSION  
 P.P. BOX 176  
 JEFFERSON CITY, MO 65102  
 (573) 751-4041

CESSATION ORDER NO. \_\_\_\_\_

DATE \_\_\_\_\_

NAME \_\_\_\_\_ MINE \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

COUNTY \_\_\_\_\_ TELEPHONE \_\_\_\_\_

STATE PERMIT NO. \_\_\_\_\_ MSHA I.D. NO. \_\_\_\_\_

DATE OF INSPECTION \_\_\_\_\_

TIME OF INSPECTION: FROM \_\_\_\_ ☐ A.M. TO \_\_\_\_ ☐ A.M.  
 FROM \_\_\_\_ ☐ P.M. TO \_\_\_\_ ☐ P.M.

NAME OF OPERATOR (IF OTHER THAN PERMITTEE) \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

**UNDER THE AUTHORITY OF THE SURFACE COAL MINING LAW (SECTION 444.800 THROUGH 444.940, RSMO, (1994), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE LAND RECLAMATION COMMISSION HAS CONDUCTED AN INSPECTION OF THE ABOVE MINE ON THE ABOVE DATE AND HAS FOUND THAT A CESSATION ORDER MUST BE ISSUED WITH RESPECT TO EACH OF THE CONDITIONS, PRACTICES, OR VIOLATIONS LISTED IN THE ATTACHMENT(S). THIS ORDER CONSTITUTES A SEPARATE CESSATION ORDER FOR EACH CONDITION, PRACTICE, OR VIOLATION LISTED.**

**IN ACCORDANCE WITH 444.885, RSMO (SUPP. 1992), YOU ARE ORDERED TO CEASE IMMEDIATELY THE OPERATIONS DESCRIBED IN THE ATTACHMENT(S) AND TO PERFORM THE AFFIRMATIVE OBLIGATIONS DESCRIBED IN THE ATTACHMENT(S) WITHIN THE DESIGNATED TIME FOR ABATEMENT. RECLAMATION OPERATIONS NOT DIRECTLY THE SUBJECT OF THIS ORDER SHALL CONTINUE WHILE THIS ORDER IS IN EFFECT. YOU ARE RESPONSIBLE FOR DOING ALL WORK IN A SAFE AND WORKMANLIKE MANNER.**

**THE UNDERSIGNED AUTHORIZED REPRESENTATIVE HEREBY FINDS THAT THIS ORDER DOES ☐ DOES NOT ☐ REQUIRE CESSATION OF MINING EXPRESSLY OR IN PRACTICAL EFFECT. FOR THIS PURPOSE "MINING" MEANS EXTRACTING COAL FROM THE EARTH OR A WASTE PILE AND TRANSPORTING IT WITHIN OR FROM THE MINE SITE.**

**THIS ORDER SHALL REMAIN IN EFFECT UNTIL IT IS MODIFIED, TERMINATED, OR VACATED BY WRITTEN NOTICE OF THE COMMISSION OR DIRECTOR.**

\_\_\_\_\_  
 AUTHORIZED REPRESENTATIVE I.D. NO. SIGNATURE

\_\_\_\_\_  
 PERSON SERVED TITLE SIGNATURE

**CESSATION ORDER NO.** \_\_\_\_\_

**NATURE OF CONDITION, PRACTICE, OR VIOLATION:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PROVISION(S) OF THE LAW, RULES, OR PERMIT VIOLATED:** \_\_\_\_\_

\_\_\_\_\_

**PORTION OF THE OPERATION TO WHICH NOTICE APPLIES:** \_\_\_\_\_

\_\_\_\_\_

**CHECK APPROPRIATE BOX:**

☐ THE CONDITION, PRACTICE, OR VIOLATIONS CREATING AN IMMINENT DANGER TO THE HEALTH OR SAFETY OF THE PUBLIC.

☐ THE CONDITION, PRACTICE, OR VIOLATION IS CAUSING OR CAN REASONABLY BE EXPECTED TO CAUSE SIGNIFICANT, IMMINENT ENVIRONMENTAL HARM TO LAND, AIR, OR WATER RESOURCES.

☐ THE PERMITTEE OR OPERATOR HAS FAILED TO ABATE VIOLATION NO. \_\_\_\_\_ WITHIN THE TIME FOR ABATEMENT ORIGINALLY FIXED OR SUBSEQUENTLY EXTENDED.

**OPERATIONS TO BE CEASED IMMEDIATELY:** \_\_\_\_\_

\_\_\_\_\_

**AFFIRMATIVE OBLIGATIONS AND TIME FOR ABATEMENT:** \_\_\_\_\_

\_\_\_\_\_



MISSOURI DEPARTMENT OF NATURAL RESOURCES  
LAND RECLAMATION COMMISSION  
P.O. BOX 176  
JEFFERSON CITY, MO 65102  
(573) 751-4041

NOTICE OF DELINQUENT RECLAMATION No \_\_\_\_\_

DATE \_\_\_\_\_

NOTICE ☐  
MODIFICATION ☐  
TERMINATION ☐

TO THE FOLLOWING PERMITTEE OR OPERATOR:

NAME \_\_\_\_\_ MINE \_\_\_\_\_

COUNTY \_\_\_\_\_ ☐ SURFACE ☐ UNDERGROUND ☐ OTHER \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ STATE PERMIT NO. \_\_\_\_\_ MSHA I.D. NO. \_\_\_\_\_

DATE OF INSPECTION: \_\_\_\_\_ TIME OF INSPECTION: FROM: \_\_\_\_\_ ☐ A.M. TO \_\_\_\_\_ ☐ A.M.  
\_\_\_\_\_ ☐ P.M. TO \_\_\_\_\_ ☐ P.M.

NAME OF OPERATOR (IF OTHER THAN PERMITTEE) \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

UNDER THE AUTHORITY OF THE SURFACE COAL MINING LAW (Sections 444.800 THROUGH 444.970, RSMo 1994), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE LAND RECLAMATION COMMISSION HAS CONDUCTED AN INSPECTION OF THE ABOVE MINE ON THE ABOVE DATE AND HAS FOUND VIOLATION(S) OF THE LAW, THE RULES, OR REQUIRED PERMIT CONDITION(S) LISTED IN THE ATTACHMENT(S). THIS NOTICE CONSTITUTES A SEPARATE NOTICE OF VIOLATION FOR EACH VIOLATION LISTED.

YOU MUST ABATE EACH OF THESE VIOLATIONS WITHIN THE DESIGNATED ABATEMENT TIME. YOU ARE RESPONSIBLE FOR DOING ALL WORK IN A SAFE AND WORKMANLIKE MANNER.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE FINDS THAT CESSATION OF MINING IS ☐ IS NOT ☐ EXPRESSLY OR IN PRACTICAL EFFECT REQUIRED BY THIS NOTICE. FOR THIS PURPOSE "MINING" MEANS EXTRACTING COAL FROM THE EARTH OR A WASTE PILE AND TRANSPORTING IT WITHIN OR FROM THE MINE SITE.

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\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
I.D. NO.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PERSON SERVED (PRINT NAME)

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
SIGNATURE

NOTICE OF DELINQUENT RECLAMATION NO. \_\_\_\_\_

NATURE OF DELINQUENCY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROVISION(S) OF THE LAW, RULES, OR PERMIT VIOLATED: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PORTION OF THE OPERATION TO WHICH NOTICE APPLIES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REMEDIAL ACTION REQUIRED (INCLUDING INTERIM STEPS, IF ANY): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TIME FOR ABATEMENT (INCLUDING TIME FOR INTERIM STEPS, IF ANY): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**COMPLAINT TRACKING**

COMPLAINT NUMBER \_\_\_\_\_ DATE \_\_\_\_\_

**CONFIDENTIAL** ☐ YES ☐ NOWAS COMPLAINANT ADVISED OF RIGHT OF CONFIDENTIALITY: ☐ YES ☐ NO

COMPLAINANT: NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_

COMPANY: \_\_\_\_\_

DESCRIPTION OF COMPLAINT (Supplement with telephone log record for complaints received verbally): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

LOCATION OF COMPLAINT: \_\_\_\_\_

\_\_\_\_\_

WAS IMMINENT HARM/DANGER INDICATED: ☐ YES ☐ NOCOMPLAINT RECEIVED BY TELEPHONE: ☐ YES ☐ NO

IF YES, PERSON RECEIVING COMPLAINT: \_\_\_\_\_

DATES(S): \_\_\_\_\_

COMPLAINT RECEIVED BY LETTER: ☐ YES ☐ NO

IF YES, DATE: \_\_\_\_\_

IF NO, WAS ONE REQUESTED: ☐ YES ☐ NOWAS COMPLAINANT VERBALLY INFORMED OF RIGHTS OF APPEAL: ☐ YES ☐ NOWAS COMPLAINANT INFORMED OF RIGHT TO ACCOMPANY  
INSPECTOR: ☐ YES ☐ NODID COMPLAINANT REQUEST TO ACCOMPANY INSPECTOR: ☐ YES ☐ NODID COMPLAINANT ACCOMPANY INSPECTOR: ☐ YES ☐ NO



WAS INSPECTION HELD WITHIN 10 DAYS OF RECEIPT OF WRITTEN COMPLAINT: ☐ YES ☐ NO

IF YES:

INSPECTION DATE(S): \_\_\_\_\_

ACCOMPANIED BY CITIZEN COMPLAINANT: ☐ YES ☐ NO

DATE: \_\_\_\_\_

ENFORCEMENT ACTION: NOV \_\_\_\_\_

CO \_\_\_\_\_

OTHER \_\_\_\_\_

WAS CITIZEN INFORMED OF RESULTS WITHIN 10 DAYS OF INSPECTION WITH  
REGARD TO DESCRIPTION OF ENFORCEMENT ACTION:

☐ YES ☐ NO

DATE: \_\_\_\_\_

WAS SEPARATE REPORT WRITTEN: ☐ YES ☐ NO

DATE: \_\_\_\_\_

SUPPLIED COPIES OF REPORTS: ☐ YES ☐ NO

DATE: \_\_\_\_\_

IF NO, WAS CITIZEN SENT A LETTER WITHIN 15 DAYS OF RECEIPT OF  
COMPLAINT DESCRIBING:

(1) REASONS WHY NO INSPECTION WAS CONDUCTED ☐ YES ☐ NO

(2) WHY NO ENFORCEMENT ACTION WAS TAKEN ☐ YES ☐ NO

(3) CITIZENS RIGHTS, IF ANY, TO INFORMAL REVIEW OF ACTION OR  
IN ACTION UNDER 10 CSR 40-8.030(4)(C)

☐ YES ☐ NO

WAS CITIZEN INFORMED OF RIGHTS OF APPEAL ☐ YES ☐ NO

WAS PERSON (COMPANY) ALLEGED TO BE IN VIOLATION GIVEN COPIES OF ALL  
MATERIALS WITHIN THE TIME LIMITS: ☐ YES ☐ NO

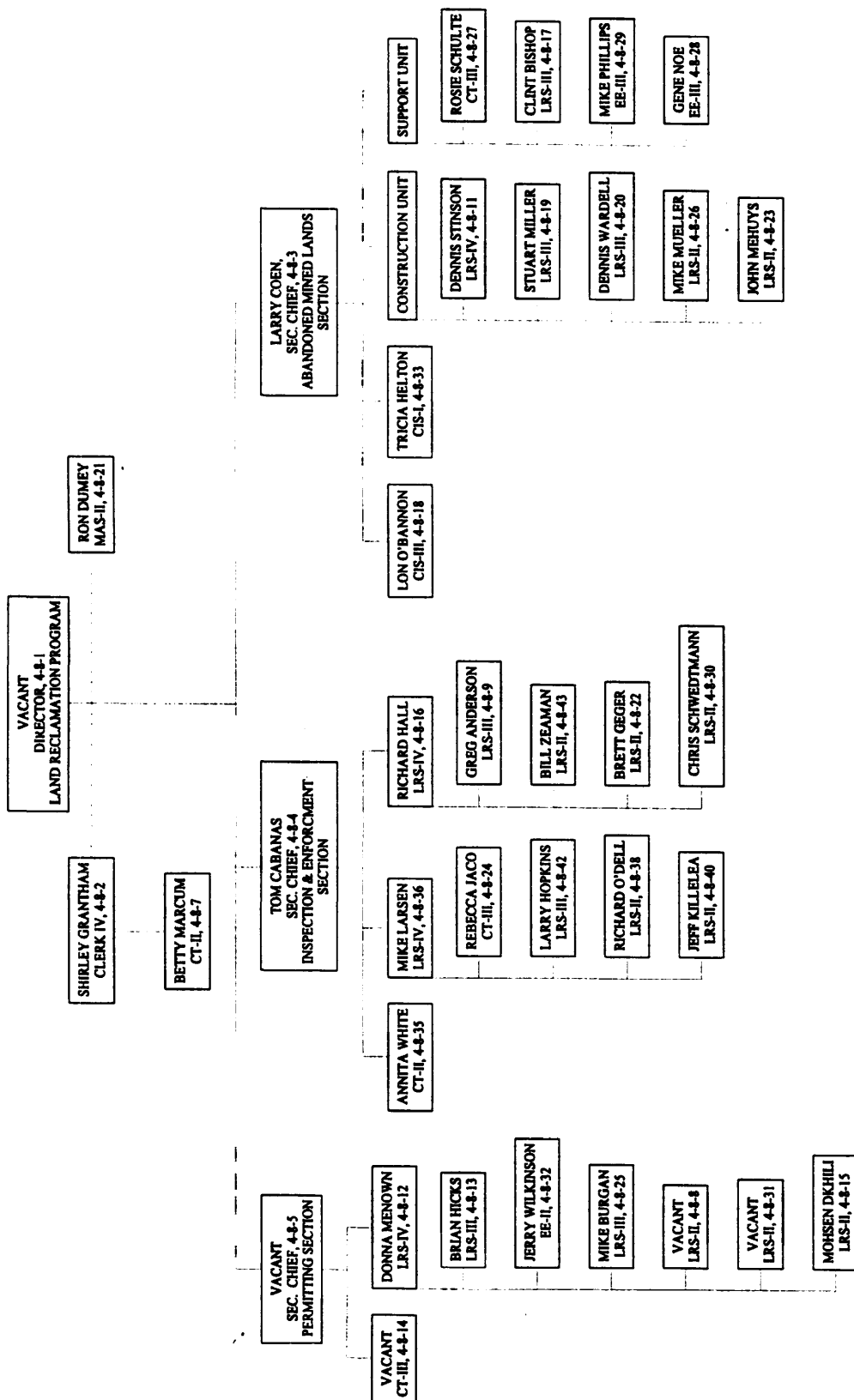
DATE: \_\_\_\_\_

**STANDARD LANGUAGE  
TO BE USED ON ALL RESPONSE LETTERS:**

"ACCORDING TO 10 CSR 40-8.030(4)(C), ANY PERSON MAY REQUEST AN INFORMAL REVIEW OR A FORMAL REVIEW BY THE DIRECTOR FOR ANY DECISION NOT TO INSPECT IF THAT PERSON HAS NOTIFIED THE DIRECTOR THAT A CONDITION OR PRACTICE EXISTS WHICH CONSTITUTES A VIOLATION OF THE REGULATORY PROGRAM. ANY PERSON MAY ALSO REQUEST AN INFORMAL REVIEW IF THE DIRECTOR DOES NOT TAKE APPROPRIATE ENFORCEMENT ACTION WITH RESPECT TO ANY VIOLATION ALLEGED BY THE PERSON IN REQUEST FOR THE INSPECTION.

ALSO, ACCORDING TO 444.880 RSMo ANY PERSON HAVING AN INTEREST WHICH IS OR MAY BE ADVERSELY AFFECTED MAY COMMENCE A CIVIL ACTION ON HIS OWN BEHALF TO COMPEL COMPLIANCE WITH THIS LAW. THIS SUIT MAY BE AGAINST ANY GOVERNMENT AGENCY TO THE EXTENT PERMITTED BY THE UNITED STATES OR MISSOURI CONSTITUTION.

AS PROVIDED BY 10 CSR 40-10.080(4)(A)2, YOU HAVE THE RIGHT FOR YOUR IDENTITY TO REMAIN CONFIDENTIAL FOR THIS OR ANY OTHER COMPLAINT THAT YOU MAY WISH TO MAKE CONCERNING A COAL MINING OPERATION. HOWEVER, IF YOU WISH TO ACCOMPANY THE INSPECTOR ON AN INSPECTION OF THE SITE OR IF DISCLOSURES ARE REQUIRED UNDER ANY OTHER LAW, YOUR RIGHT TO CONFIDENTIALITY WILL BE WAIVED."



**DEPARTMENT OF NATURAL RESOURCES - LAND RECLAMATION PROGRAM  
INDUSTRIAL MINERALS INSPECTION REPORT COVER FORM**

COMPANY \_\_\_\_\_ PERMIT NO. \_\_\_\_\_  
 INSPECTION DATE \_\_\_\_\_ LAST DATE OF INSPECTION \_\_\_\_\_  
 COMPANY PERSONNEL \_\_\_\_\_ ENFORCEMENT ACTIONS \_\_\_\_\_  
 WEATHER CONDITIONS \_\_\_\_\_ SITE NO. \_\_\_\_\_

<u>SITE NAME/ COUNTY</u>	<u>STANDARDS VIOLATED</u>	<u>TYPE INSPIC*</u>	<u>SITE NAME/ COUNTY</u>	<u>STANDARDS VIOLATED</u>	<u>TYPE INSPIC</u>
1. _____			7. _____		
2. _____			8. _____		
3. _____			9. _____		
4. _____			10. _____		
5. _____			11. _____		
6. _____			12. _____		

\* R = Regular Inspection

B = Bond Release Inspection

C = Complaint Inspection

OFFICE PHOTOGRAPHS CHECKED? YES NO (circle) ASCS PHOTOS COLLECTED OR ORDERED? (circle)  
 DATE REPORT WRITTEN: \_\_\_\_\_

**PERFORMANCE STANDARDS CHECKED**

- |                         |  |
|-------------------------|--|
| A. 10 CSR 40-10.010     | PERMITTING (ACREAGE DIST. VS. ACREAGE PERMITTED)   |
| B. 10 CSR 40-10.020     | PERMIT RENEWAL (EXPIRED PERMITS)                   |
| C. 10 CSR 40-10.030     | TOPSOIL BONDING                                    |
| D. 10 CSR 40-10.050(2)  | LATERAL SUPPORT (DISTANCE TO RIGHT-OF-WAYS)        |
| E. 10 CSR 40-10.050(3)  | SAFETY BARRIER                                     |
| F. 10 CSR 40-10.050(4)  | EROSION AND SILTATION CONTROL                      |
| G. 10 CSR 40-10.050(5)  | GRADING  |
| H. 10 CSR 40-10.050(5)  | ACID FORMING MATERIALS                             |
| I. 10 CSR 40-10.050(6)  | TOPSOIL HANDLING                                   |
| J. 10 CSR 40-10.050(7)  | REVEGETATION                                       |
| K. 10 CSR 40-10.050(7)  | LAND USE   |
| L. 10 CSR 40-10.050(8)  | CLEANUP  |
| M. 10 CSR 40-10.050(9)  | PERMANENT IMPOUNDMENTS                             |
| N. 10 CSR 40-10.050(10) | GRADING AND REVEGETATION SCHEDULES-SUCCESS OF VEG. |
| O. 10 CSR 40-10.050(11) | SIGNS  |
| P. 10 CSR 40-10.050(12) | SUBSTITUTION                                       |
| 10 CSR 40-10.060        | ACCESS-RIGHT OF ENTRY                              |
| OTHER: _____            |  |

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**LAND RECLAMATION COMMISSION  
MISSOURI DEPARTMENT OF NATURAL RESOURCES  
INDUSTRIAL MINERALS UNIT  
P.O. BOX 176  
JEFFERSON CITY, MO 65102  
(573)751-4041**

NOTICE ☐  
MODIFICATION ☐  
TERMINATION ☐

**NOTICE OF VIOLATION FORM - PERMITTED OPERATORS**

NOTICE OF VIOLATION NO.: \_\_\_\_\_

DATE: \_\_\_\_\_

To the Following Permittee or Operator:

Name: \_\_\_\_\_

Mine: \_\_\_\_\_ County: \_\_\_\_\_

Permit Number: \_\_\_\_\_ Section or United States Survey: \_\_\_\_\_

Township: \_\_\_\_\_ Range: \_\_\_\_\_ Date of Inspection: \_\_\_\_\_

Time of Inspection: From: ☐ a.m. to: ☐ a.m.

☐ p.m. to: ☐ p.m.

Name of operator (if other than permittee): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**UNDER** the authority of The Land Reclamation Act (Section 444.760 to 444.789 RSMo Supp. 1990) the undersigned authorized representative of the Land Reclamation Commission has conducted an inspection of the above mine on the above date and has found violation(s) of the law listed in the attachment(s). This Notice constitutes a separate Notice of Violation for each violation listed.

**YOU** must abate each of these violations within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

**THIS** Notice shall remain in effect until it is modified, terminated or vacated by the Commission or Department Director for good cause, if a request is made within a responsible time before the end of the abatement period.

Authorized Representative (print name): \_\_\_\_\_

I.D. No.: \_\_\_\_\_ Signature: \_\_\_\_\_

**NOTICE OF VIOLATION NO.:** \_\_\_\_\_

**Nature of the  
Violation:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Provision(s) of  
the Law Violated:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Portion of the Operation  
to which the Notice Applies:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Remedial Action Required  
(including interim steps, if any):** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Time for Abatement (including time  
for interim steps, if any):** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

### OPERATORS RIGHTS OF REVIEW

The Land Reclamation Act in Section 444.787 RSMo (Supp. 1991) allows a permittee issued a Notice to apply to the Director of the Land Reclamation Program for review of the Notice of Violation. The review is in the format of an informal conference. The application for an informal conference must be received by the Director of the Land Reclamation Commission within fifteen (15) days of receipt of this notification.

After completion of the remedial actions as specified in the Notice, the Commission shall either assess the administrative penalty as recommended by the Director and/or affirm, modify, vacate or terminate the Notice or Order.

A formal complaint will be filed against you if you fail to comply with this Notice. You may, within fifteen (15) days of the receipt of the formal complaint, request a hearing before the Commission.

If an operator has not secured a permit to operate a surface mine, the Commission may refer the matter to the Missouri Attorney General's Office for the filing of misdemeanor charges.

Further, if an operator conducts surface mining operations without a permit or in violation of any revocation order, the Commission may request the Missouri Attorney General's Office to file suit for an injunction and civil penalties up to \$1,000 per day of each day of operations without a permit.

**LAND RECLAMATION COMMISSION  
MISSOURI DEPARTMENT OF NATURAL RESOURCES  
INDUSTRIAL MINERALS UNIT  
P.O. BOX 176  
JEFFERSON CITY, MO 65102  
(573)751-4041**

NOTICE [ ]  
MODIFICATION [ ]  
TERMINATION [ ]

**NOTICE OF VIOLATION-UNPERMITTED OPERATORS**

NOTICE OF VIOLATION NO. \_\_\_\_\_

DATE: \_\_\_\_\_

To the Following Operator:

Name of Company: \_\_\_\_\_

Mine: \_\_\_\_\_ County: \_\_\_\_\_  
Section or United States Survey: \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_

Date of Inspection: \_\_\_\_\_

Time of Inspection: From: [ ] a.m. to: [ ] a.m.  
[ ] p.m. to: [ ] p.m.

Name of operator \_\_\_\_\_

Mailing Address \_\_\_\_\_

**UNDER** the authority of The Land Reclamation Act (Section 444.760 to 444.789 RSMo Supp. 1990) the undersigned authorized representative of the Land Reclamation Commission has conducted an inspection of the above mine on the above date and has found violation(s) of the law listed in the attachment(s). This Notice constitutes a separate Notice of Violation for each violation listed.

**YOU** must abate each of these violations within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

**THIS** Notice shall remain in effect until it is modified, terminated or vacated by the Commission or Department Director for good cause, if a request is made within a responsible time before the end of the abatement period.

Authorized Representative (print name) \_\_\_\_\_

I.D. No.: \_\_\_\_\_ Signature: \_\_\_\_\_



**NOTICE OF VIOLATION NO.:** \_\_\_\_\_

**Nature of the Violation:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Provision(s) of the Law Violated:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Portion of the Operation to which the Notice Applies:** \_\_\_\_\_  
\_\_\_\_\_

**Remedial Action Required (including interim steps, if any):** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Time for Abatement (including time for interim steps, if any):** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Notice to Operators

If an operator has not secured a permit to operate a surface mine, the Commission may refer the matter to the Missouri Attorney General's Office for the filing of misdemeanor charges.

Further, if an operator conducts surface mining operations without a permit or in violation of any revocation order, the Commission may request the Missouri Attorney General's Office to file suit for an injunction and civil penalties up to \$1,000 per day of each day of operations without a permit.

**The abatement of this violation may not prevent the Land Reclamation Commission from pursuing legal actions for violations of the law such as, civil penalties, injunctions or bond forfeiture.**

INDUSTRIAL MINERALS MODIFICATION  
NOTICE OF VIOLATION NO. \_\_\_\_\_

DATE OF REQUEST \_\_\_\_\_

DATE OF INSPECTION \_\_\_\_\_

TIME OF INSPECTION: FROM \_\_\_\_\_ A.M. TO \_\_\_\_\_ A.M.  
\_\_\_\_\_ P.M. TO \_\_\_\_\_ P.M.REASON FOR MODIFICATION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_NEW AFFIRMATIVE OBLIGATIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE OF NEW ABATEMENT: \_\_\_\_\_

SIGNATURE OF INSPECTOR: \_\_\_\_\_ I.D. NO. \_\_\_\_\_ DATE \_\_\_\_\_

SIGNATURE OF PERSON SERVED WITH NOTICE: \_\_\_\_\_

DATE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_SUPERVISOR'S EVALUATION OF A REQUEST IF BEYOND 90 DAYS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SUPERVISOR/CHIEF SIGNATURE: \_\_\_\_\_ DATE \_\_\_\_\_

## INDUSTRIAL MINERALS TERMINATION

NOTICE OF VIOLATION NO.# \_\_\_\_\_

DATE OF ABATEMENT: \_\_\_\_\_

DATE OF INSPECTION: \_\_\_\_\_

TIME OF INSPECTION: FROM \_\_\_\_\_ A.M. TO \_\_\_\_\_ A.M.  
\_\_\_\_\_ P.M. TO \_\_\_\_\_ P.M.

REASON FOR TERMINATION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NAME OF INSPECTOR: \_\_\_\_\_ I.D. NO. \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE \_\_\_\_\_

\_\_\_\_\_  
PERSON SERVED WITH NOTICE\_\_\_\_\_  
TITLE\_\_\_\_\_  
SIGNATURE\_\_\_\_\_  
DATE

## INDUSTRIAL MINERALS VACATION

NOTICE OF VIOLATION NO.# \_\_\_\_\_

DATE OF INSPECTION: \_\_\_\_\_

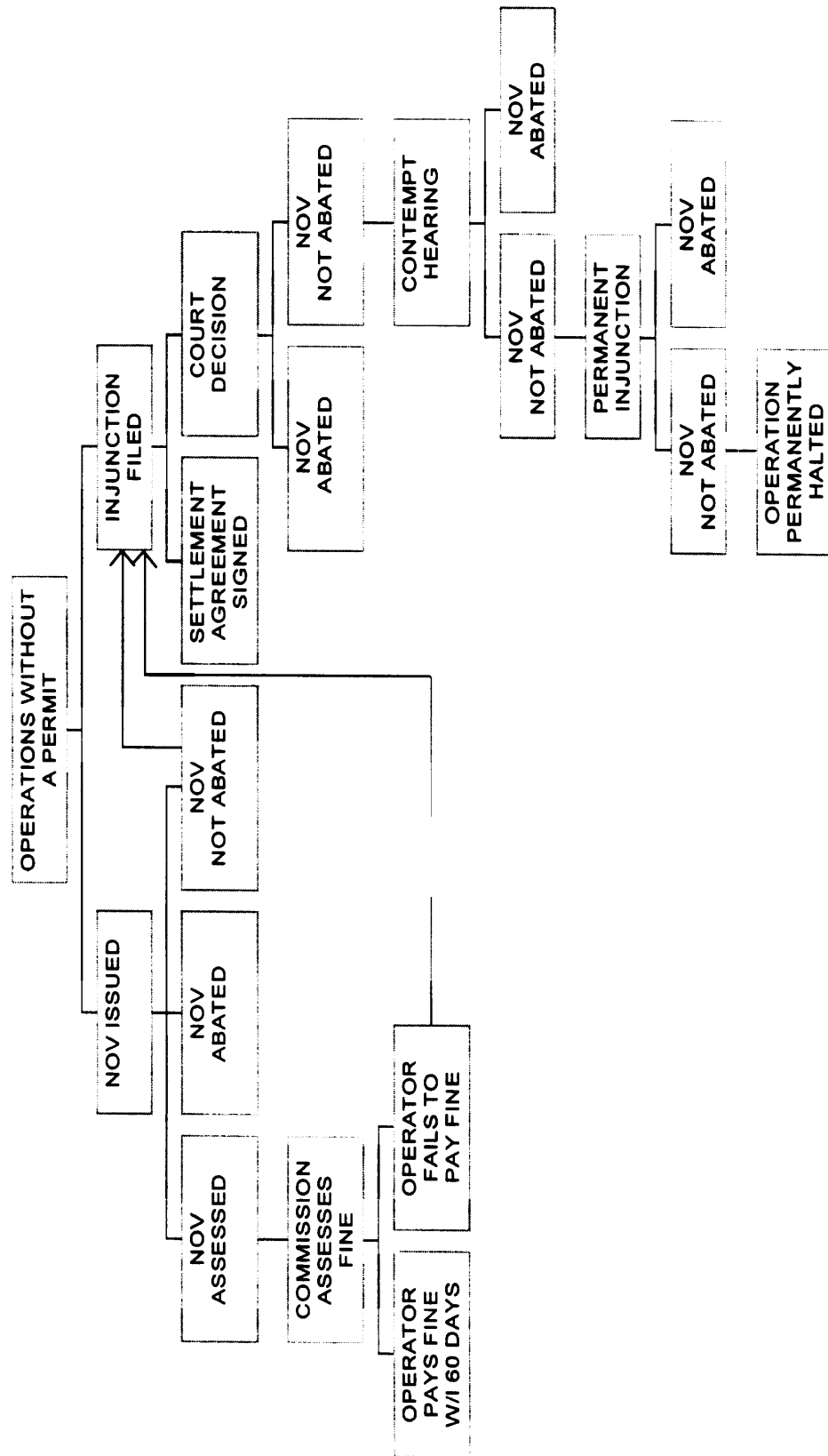
TIME OF INSPECTION: FROM \_\_\_\_\_ A.M. TO \_\_\_\_\_ A.M.  
\_\_\_\_\_ P.M. TO \_\_\_\_\_ P.M.REASON FOR VACATION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAME OF INSPECTOR: \_\_\_\_\_ I.D. NO. \_\_\_\_\_

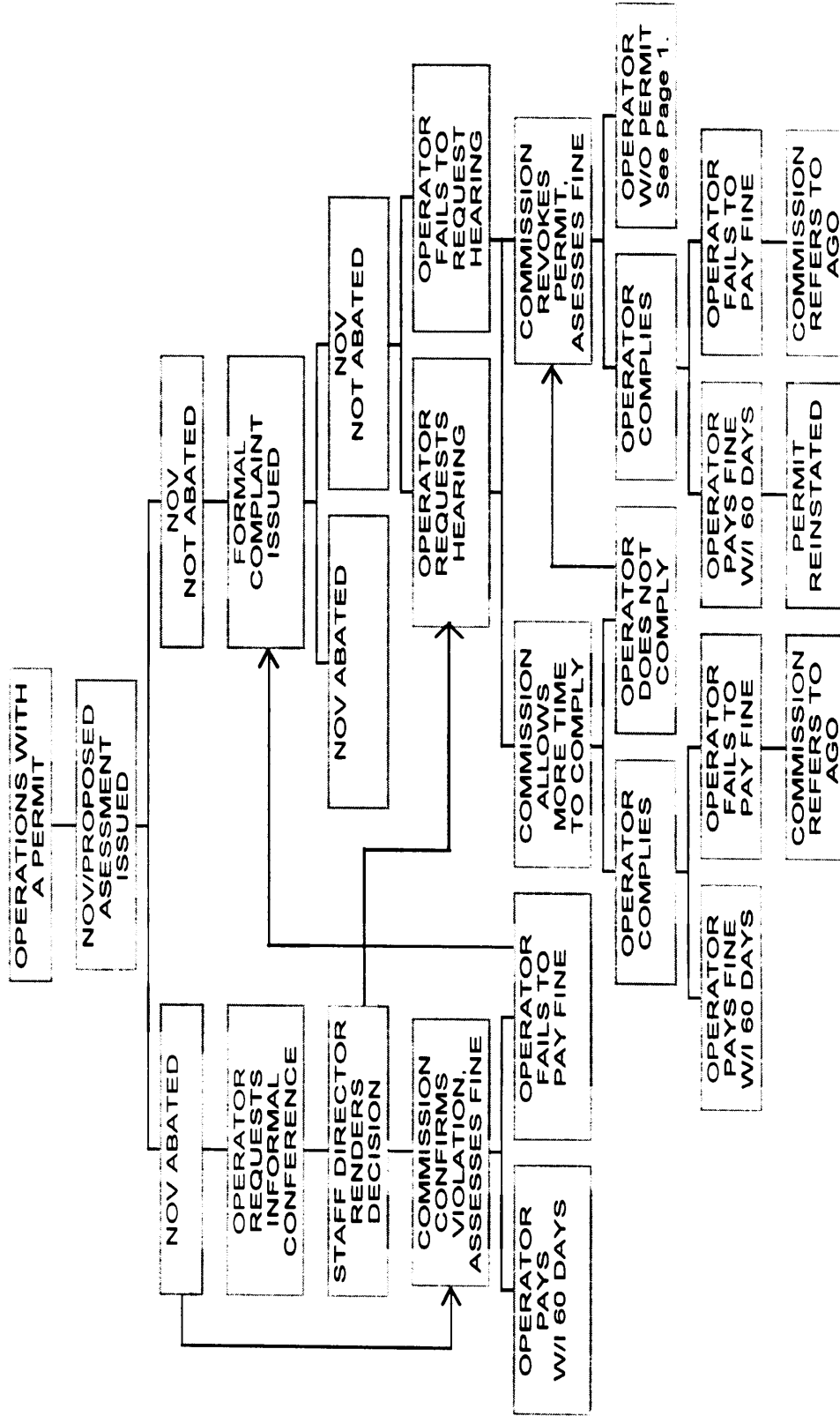
SIGNATURE: \_\_\_\_\_ DATE \_\_\_\_\_

\_\_\_\_\_  
PERSON SERVED WITH NOTICE\_\_\_\_\_  
TITLE\_\_\_\_\_  
SIGNATURE\_\_\_\_\_  
DATE

INDUSTRIAL MINERALS  
ENFORCEMENT  
FLOW CHART  
Page 1



Page 2



**DEPARTMENT OF NATURAL RESOURCES - LAND RECLAMATION PROGRAM  
METALLIC MINERALS INSPECTION REPORT COVER FORM**

COMPANY \_\_\_\_\_ PERMIT NO. \_\_\_\_\_

INSPECTION DATE \_\_\_\_\_ LAST DATE OF INSPECTION \_\_\_\_\_

COMPANY PERSONNEL \_\_\_\_\_ ENFORCEMENT ACTIONS \_\_\_\_\_

WEATHER CONDITIONS \_\_\_\_\_ OPERATION TYPE Smelter Mine Both  
(Circle one)

<u>SITE NAME/ COUNTY</u>	<u>STANDARDS VIOLATED</u>	<u>TYPE INSP* INSPEC</u>	<u>SITE NAME/ COUNTY</u>	<u>STANDARDS VIOLATED</u>	<u>TYPE INSP* INSPEC</u>
1. _____			7. _____		
2. _____			8. _____		
3. _____			9. _____		
4. _____			10. _____		
5. _____			11. _____		
6. _____			12. _____		

\* R = Regular Inspection

B = Bond Release Inspection

C = Complaint Inspection

Date Report Written: \_\_\_\_\_

**PERMIT REQUIREMENTS AND CONDITIONS CHECKED**

- A. PERMIT RENEWAL
- B. FINANCIAL ASSURANCE INSTRUMENT
- C. ANNUAL FEE PAYMENT
- D. DAM SAFETY PERMIT
- E. N.P.D.E.S. PERMIT
- F. GROUNDWATER MONITORING
- G. SOLID WASTE PERMIT
- H. AIR QUALITY PERMIT
- I. EROSION CONTROL AND STABILIZATION
- J. REVEGETATION
- K. POST CLOSURE LAND USE
- L. BUILDING DISMANTLING AND EQUIPMENT REMOVAL
- M. ACCESS - RIGHT TO ENTRY
- N. OWNERSHIP AND CONTROL
- O. OTHER: \_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_



## Department of Natural Resources Data Processing Standard Operating Procedures

**Number:** 024.00

**Topic:** Latitude and Longitude Locational Accuracy

**Status:** Final

**Updated:** November 8, 1996

**Purpose:** Guidelines for Latitude and Longitude Locational Accuracy.

### **General Provisions:**

This guideline underscores the Department's commitment to establish a common data structure that will allow natural resource data to be relate to geographical features. Latitude and longitude coordinates (commonly referred to as lat/long) provide a way to link environmental data to geographic features on a map or the ground.

- A. It is the goal of the Department to associate lat/long information with all of its major data sets by the year 2000. Implementation must be sensitive to the requirements of agencies that work closely with the Department, such as the State Emergency Management Agency (SEMA) and the Environmental Protection Agency (EPA).
- B. There are many ways available to determine lat/long information. Given the technology currently available to the Department, it is recommended that Global Positioning System (GPS) receivers be used to achieve a level of accuracy of plus or minus 25 meters (+/-75 ft.). This goal does not preclude more stringent standards, such as the level of accuracy required by the Division of Geology and Land Survey .
- C. The ability to rely on a standard set of data elements is a key component to using locational information. Uniform guidelines for collecting locational dat are described in the *Locational Data Method Accuracy Description (MAD) coding Standards*.
- D. Program managers are responsible for ensuring that the program's point of interest, data includes lat/long information.
- E. The data processing support staff are responsible for ensuring that the Department's databases meets the technical requirements of the MAD coding standards.
- F. Employees are responsible for collecting lat/long information appropriate to their project requirements and adapting the MAD coding standards to unique field conditions.

# Appendix A

## Department of Natural Resources

### Division of Environmental Quality

# Locational Data Collection Sheet

This sheet is used to record required locational data. Attach the *Optional Locational Data Collection Sheet* if you need to record additional information.

<b>1. Facility or Site</b> (Name and Address)							
<b>2. Facility ID, Permit Number or Other Identifier</b>							
<b>3. Data Owner</b>		(1) DEQ/Adm.		(2) APCP		(3) ESP	
		(4) HWP		(5) LRP		(6) PDWP	
		(7) SWCP		(8) SWMP		(9) TAP	
		(10) WPCP		Other			
<b>4. Locational Data</b> (Leave blank for linear or area features, such as roads, streams or site boundaries.)						Latitude	Longitude
<b>5. Unit of Measurement</b>		(1) Degrees, Minutes, Seconds or (2) Decimal Degrees					
<b>6. Method of Determining Location</b> (Indicate the method used to determine the latitude and longitude coordinates.)							
<b>Address Matching (Geocoding)</b>		<b>Code</b>		<b>Differential Post Processing</b>		C	
Block/Group		A2		Precise Positioning Service		G4	
Digitization		A6		Signal Averaging		G5	
Nearest Street Intersection		A4		Real Time Differential Processing		G6	
Other Address Matching		AO		<b>Interpolation</b>			
Primary Street Name		A5		Aerial Photograph		I2	
Street Centerline		A3		Map		I1	
Zip Code Centroid (Center)		Z1		Satellite Imagery		I3	
<b>Census - 1990</b>				Other Interpolation		IO	
Block Centroid (Center)		C1		<b>Other</b>			
Block/Group Centroid		C2		Classic Survey		S1	
Block/Track Centroid		C3		Land Survey		P1	
Other Centroid		CO		Loran C Code		L1	
<b>Global Positioning System</b>				Quarter Section Description		S2	
Static Mode		G1		Unknown		UN	
Kinematic Mode (Dynamic)		G2					
<b>7. Locational Data Accuracy</b> (Enter a value and circle the unit of measurement)				<b>8. Type of Locational Data Represented</b>			
(+/-)							
Degrees		1 Feet		5		Single Point	
Minutes		2 Miles		6		Line	
Second		3 Kilometers		7		Area	
Meters		4 Decimal Degrees		8			
<b>9. Horizontal Datum</b> (Indicate the horizontal datum used to locate the collection site feature.)							
(1) NAD27, (2) NAD83, (3) WGS84, (U) Unknown Other							

# Appendix B

## Department of Natural Resources

### Division of Environmental Quality

# Optional Locational Data Collection Sheet

This sheet is used to record optional locational data. If this sheet is stapled to a *Locational Data Collection Sheet*, skip numbers 1, 2 and 10.

<b>1. Facility or Site</b> (Name and Address)			
<b>2. Facility ID, Permit Number or Other Identifier</b>			
<b>3. Description Sequence Number</b> (A sequential number used to identify multiple points that have not been assigned unique identifiers. The number is assigned by the person collecting the locational data. For example, the numbers 4 and 5 can be used to identify the fourth and fifth well in a series of 20 unnumbered interceptor wells located at a site that has been assigned one facility ID or permit number. A separate <i>Optional Locational Data Collection Sheet</i> must be filled out for each sequential point.)			
<b>4. Data Owner</b>	(1) DEQ/Adm,   (2) APCP,   (3) ESP,   (4) HWP,   (5) LRP,   (6) PDWP,   (7) SWCP, (8) SWMP,   (9) TAP,   (10) WPCP,   Other _____		
<b>5. Elevation</b>		<b>6. Elevation Accuracy</b>	
(5) Feet _____ Or (6) Meters _____		(5) Feet +/- _____ Or (6) Meters +/- _____	
<b>7. Data Point Sequence</b> (This is required if a series of sequential points are recorded. A sequential number is assigned by the person collecting the data to indicate the number of points collected. For example, sequential points taken along a road or the points around a property boundary.)			
Starting Way Point Number _____ Ending Way Point Number _____			
<b>8. Elevation Datum Reference</b> (If applicable, circle the appropriate code)			
(1) NAVD88,   (2) NGVD29,   (3) Mean Sea Level,   (U) Unknown   (N) Not Applicable Other _____			

(Continued on the back)  
Appendix B

# Appendix C

## Department of Natural Resources

### Division of Environmental Quality

## Locational Data Collection Sites

The following reference points, areas or features should be used when collecting locational data with a Global Positioning System (GPS) receiver. The receiver should be set to static mode when take a reading, except when noted separately.

Type of Facility, Site or Area	Collection Point, Area or Feature
<b>Air Pollution Control Program</b>	
Facility in an Attainment Area	Main Access Point, Entrance, Gate, etc. (code as MG)
Facility in A Non-Attainment Area	Main Access Point, Entrance, Gate, etc. (code as MG)
Facility Above De Minimus Levels	Main Access Point, Entrance, Gate, etc. (code as MG)
Facility at De Minimus Levels	Main Access Point, Entrance, Gate, etc. (code as MG)
Site or area containing portable equipment at a permitted or unapproved site	Main Access Point, Entrance, Gate, etc. (code as MG)
<b>Hazardous Waste Program</b>	
Land Disposal Operating Site	Main Access Point, Entrance, Gate, etc. (code as MG)
Post-closure Site	Main Access Point, Entrance, Gate, etc. (code as MG)
Permit Compliance Scheduled Investigation	Main Access Point, Entrance, Gate, etc. (code as MG)
Resource Recovery Certification Investigation	Main Access Point, Entrance, Gate, etc. (code as MG)
Storage or Treatment Site	Main Access Point, Entrance, Gate, etc. (code as MG)
Linear Spill	1. Set the GPS to dynamic mode 2. Take readings at one second intervals along the spill.
Area Spill	1. Set the GPS to dynamic mode 2. Take readings at one second interval around the spill.
Facility Assessment	Main Access Point, Entrance, Gate, etc. (code as MG)
Facility Investigation	Main Access Point, Entrance, Gate, etc. (code as MG)
Facility Sampling Point	Main Access Point, Entrance, Gate, etc. (code as MG)
<b>Land Reclamation Program</b>	
Coal Exploration Industrial Mineral Mining Metallic Mineral Waste Management Surface Coal Mining	Choose one of the following that best describes the mine location.
	Take a reading at the Main Office when: a. the main office is within close proximity to multiple disconnected sites. (code as MA)
	Take a reading at the Main Access Point, Entrance, Gate, etc. when: a. the main office is not within close proximity, b. the mine is a continuous track. (code as MG)

Type of Facility, Site or Area	Collection Point, Area or Feature
Special Waste Landfill	Main Access Point, Entrance, Gate, etc. (code as MG)
Transfer Station	Main Access Point, Entrance, Gate, etc. (code as MG)
Waste Tire Facility	Main Access Point, Entrance, Gate, etc. (code as MG)
<b>Water Pollution Control Program</b>	
Major Facility Operating Site	Pipe Outfall (code as OP)
Minor Facility Construction Site	Pipe Outfall (code as OP)
Minor Facility Operating Site	Pipe Outfall (code as OP)
Sewer Extension Construction Site	Point of Connection (code as OP)

# Appendix A

## Department of Natural Resources

### Division of Environmental Quality

# Sample Locational Data Collection Sheet

This sheet is used to record required locational data collected during an inspection or site visit. Attach the *Optional Locational Data Collection Sheet* if you need to record additional information.

<b>1. Facility or Site (Name and Address)</b>		<b>2. Facility ID, Permit Number</b>	
<b>3. Collected For (Circle the Program requesting the locational data.)</b>		(1) DEQ/Adm,    (2) APCP,    (3) ESP,    (4) HWP,    (5) LRP,	
(6) PDWP,    (7) SWCP,    (8) SWMP,    (9) TAP,    (10) WPCP,    Other _____			
<b>Locational Data</b> (Leave blank for dynamic linear or area features, i.e., roads, streams or boundaries)		<b>Latitude</b>	<b>Longitude</b>
<b>4. Unit of Measurement</b>	(1) Degrees, Minutes, Seconds    Or    (2) Decimal Degrees		
<b>5. Method of Determining Location</b> (Circle the code indicating the method used to determine the latitude and longitude coordinates.)			
<b>Address Matching (Geocoding)</b>		<b>Kinematic Mode (Dynamic)</b>	
Block/Group	A2	Differential Post Processing	G0
Digitization	A6	Precise Positioning Service	G4
House Number	A	Selective Availability - Off	G
Nearest Street Intersection	A4	Selective Availability - On	G6
Other Address Matching	AO	<b>Interpolation</b>	
Primary Street Name	A5	Aerial Photograph	I2
Street Centerline	A3	Land Survey - Footing	P2
<b>Census - 1990</b>		Land Survey - Quarter Section Description	P1
Block Centroid (Center)	C1	Loran C Code	L1
Block/Group Centroid	C2	Map	I1
Block/Track Centroid	C3	Other Interpolation	IO
Other Census	CO	Satellite Imagery	I3
<b>Global Positioning</b>		Unknown	UN
Static Mode	G1	Zip Code Centroid (Center)	Z1
<b>6. Locational Data Accuracy</b> (enter value or circle appropriate code)		<b>7. Type of Locational Data Represented by the Collection Site Feature</b>	
Degrees	1	Meters	5
Minutes	2	Miles	6
Second	3	Kilometers	7
Feet	4	Decimal Degrees	8
		Single Point	P
		Line	L
		Area	A
<b>8. Horizontal Datum</b> (Indicate the horizontal datum used to describe the collection site feature.)			
(1) NAD27,    (2) NAD83,    (3) WGS84,    (U) Unknown    Other _____			

**10. Collection Site Feature**

(Circle the code indicating the feature where the locational data was collected or determined from. If needed, use 12. Descriptive Comments to describe the feature in more detail. The intent is to provide enough information so someone could return to the collection site feature and get additional locational data.)

Collection Site Feature	Code	Northeast Corner of the Facility or Site	NE
Dock	BR	Northwest Corner of the Facility or Site	NW
Building	BL	Other (use Descriptive Comments #11 below)	
Center of Facility or Site	CF	Pile	PL
Described by Descriptive Comment Field	DC	Pipe (Outfall, Intake, Connection, Break, etc.)	OP
Described by Site Name	DS	Rail Road	RR
Equipment Point of Use	EU	Road	RD
Intersection (Road, Pipe, Street, etc.)	IN	Southeast Corner of the Facility or Site	SE
Lagoon or Pond	LS	Southwest Corner of the Facility or Site	SW
Loading Facility or Dock	LD	Stack	AS
Main Access Point (Entrance, Gate, etc.)	MG	Tank, Standpipe, Tower	TK
Main Office	MA	Unknown	UN
Missouri Land Survey Monument	MM	Vent	AV
Monitoring Station	AM	Well	WL

**11. Descriptive Comments**

(If needed, use this box to describe the feature represented by 9. Collection Site Feature. For example, "Discharge point at the end of pipe no. 12," or "Started at the NW corner, went clockwise around the site boundary, recorded 27 points and ended at the same starting location.")

**Source of Locational Data**

Description	Code	Southwest Regional	D3	Land Reclamation	N1	EPA Headquarters	HQ
Citizen	CT	Kansas City Regional	D4	Public Drinking Water	N2	Private Sector	PV
Contractor	CR	Northeast Regional	D5	Soil & Water	N3	Regulated Entity	RE
Dun & Bradstreet	DB	St. Louis Regional	D6	Solid Waste	N4	Tribe	TR
EPA Region 7	R7	Air Pollution Control	D7	Technical Assistance	N5	Unknown	UN
Jefferson Regional	D1	Environmental Services	D8	Water Pollution Control	N6	Other	
Southeast Regional	D2	Hazardous Waste	D9				

**13. Source Scale Used to Determine the Latitude and Longitude (Circle the code below)**

Range Scale	Code	Discrete Scale	Code		
<= 1:500	1	1:10,000	A	1:100,000	J
1:500 - 1:5,000	2	1:12,000	B	1:125,000	K
1:5,001 - 1:10,000	3	1:15,840	C	1:250,000	L
1:10,001 - 1:15,000	4	1:20,000	D	1:500,000	M
1:15,001 - 1:20,000	5	1:24,000	E	None	N
1:20,001 - 1:25,000	6	1:25,000	F	Other	
1:25,001 - 1:50,000	7	1:50,000	G	Unknown	U
1:50,001 - 1:100,000	8	1:62,500	H		
1:100,001 - 1:1,000,000	9	1:63,360	I		

14. Your Name  
(Please Print)

15. Phone

( )

16. Date  
Collected

/ /

# Appendix B

## Department of Natural Resources

### Division of Environmental Quality

# Sample Optional Locational Data Collection Sheet

This sheet is used to record optional locational data collected during an inspection or site visit. If this sheet is attached to a *Locational Data Collection Sheet*, skip numbers 1 through 3.

<b>1. Facility or Site</b> (Name and Address)	<b>2. Facility ID, Permit Number</b>		
<b>3. Description Sequence Number</b> (A sequential number assigned by the person collecting the locational data. This number is used to differentiate between multiple points of interest that do not have unique identifiers. For example, a series of 20 unnumbered interceptor wells that share a common permit number. A separate <i>Optional Locational Data Collection Sheet</i> is required for each point of interest attached to a single facility or permit ID.)			
Point of interest number _____ for the identification number entered in the Facility ID, Permit Number box.			
<b>4. Collected For</b> (Circle the Program requesting the locational data.)	(1) _____ (2) APCP, (3) ESP, (4) HWP, (5) LRP, DEQ/Adm,		
(6) PDWP, (7) SWCP, (8) SWMP, (9) TAP, (10) WPCP, Other _____			
<b>5. Elevation of Collection Site Feature</b>	<b>6. Elevation Accuracy</b>		
(5) Feet _____ Or (6) Meters _____	(5) Feet +/- _____ Or (6) Meters +/- _____		
<b>7. Data Point Sequence</b> (A sequential number assigned by the person collecting the locational data to indicate order and number of locational points along a line or around a site boundary. It is required if the locational data is a series of sequential points.)			
Waypoint Number _____ Through Waypoint Number _____			
<b>Verification Method</b> (Circle the code indicating the process used to verify locational data.)			
Method	Code	Corrected	C
Verified	V	Unknown	U
Not Verified	N		
<b>9. Elevation Datum Reference</b> (If applicable, circle the appropriate code)			
(1) NAVD88, (2) NGVD29, (3) Mean Sea Level, (U) Unknown (N) Not Applicable			
Other _____			

Continued on Page Two (On Back)



7. Method of Determining Elevation (Circle the code indicating the method used to determine the elevation of a locational coordinate.)

Method	Code
Altimetry	A1
GPS Carrier Phase Static Relative Positioning	G1
GPS Carrier Phase Kinematic Relative Positioning	G2
GPS Code Measurement (Pseudo Range) Differential	G3
GPS Code Measurement (Pseudo Range) Precise Positioning Service	G4
GPS Code Measurement (Pseudo Range) Standard Positioning Service - Selective Availability Off	G5
GPS Code Measurement (Pseudo Range) Standard Positioning Service - Selective Availability On	G6
Land Survey	S1
Leveling Between Non Bench Mark Control Points	L2
Leveling from a Bench Mark Control Point	L1
Photogrammetric	P1
Other	
Topographic Map Interpolation	T1
Trigonometric Leveling	L3

11. Your Name (Please Print)		12. Phone ( )		13. Date Collected	/ /
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# Appendix C

## Department of Natural Resources

### Division of Environmental Quality

## Locational Data Collection Sites

The following reference points, areas or features should be used when collecting locational data. The Global Positioning System (GPS) receiver should be set to static mode when take a reading, except when noted separately.

Type of Facility, Site or Area	Collection Point, Area or Feature
<b>Air Pollution Control Program</b>	
Facility in an Attainment Area	Main Access Point
Facility in A Non-Attainment Area	Main Access Point
Facility Above De Minimus Levels	Main Access Point
Facility at De Minimus Levels	Main Access Point
Site or Area Containing Portable Equipment At a Permitted or Unapproved Site	Main Access Point
<b>Hazardous Waste Program</b>	
Land Disposal Operating Site	Main Access Point
Post-closure Site	Main Access Point
Permit Compliance Scheduled Investigation	Main Access Point
Resource Recovery Certification Investigation	Main Access Point
Storage or Treatment Site	Main Access Point
Linear Spill	<ol style="list-style-type: none"> <li>1. Set the GPS to dynamic mode</li> <li>2. Take readings at one second intervals along the spill.</li> </ol>
Area Spill	<ol style="list-style-type: none"> <li>1. Set the GPS to dynamic mode</li> <li>2. Take readings at one second interval around the spill.</li> </ol>
Facility Assessment	Main Access Point
Facility Investigation	Main Access Point
Facility Sampling Point	Main Access Point
<b>Land Reclamation Program</b>	
Coal Exploration	Choose one of the following that best describes the mine location.
Industrial Mineral Mining	
Metallic Mineral Waste Management	
Surface Coal Mining	

Take a reading at the main office when:

- a. the main office is within close proximity to multiple disconnected sites.

Take a reading at the main access point when:

- a. the main office is not within close proximity,
- b. the mine is a continuous track.

Take a reading at an easily identifiable object (smoke stack, road intersection, bridge, fence corner, etc.) when:

- a. there is no main office,
- b. the main office is not within close proximity,
- c. there are multiple disconnected sites,
- d. a single main access point is not available.

#### **Abandoned Mine**

#### **Center of the Site**

### **Public Drinking Water Program**

#### **Proposed Public Water Supply**

Well

Well Head

Water Tower

Tower Base

Elevated Tank

Tank Base

Standpipe

Standpipe Base

Ground Storage Tank

Storage Tank Base

Raw Water Intake Structure

Intake Structure

Water Treatment Facility

Center of Facility

Booster Pumping Station

Center of Facility

Water Main Extension

Point of Connection

#### **Public Water Supply Modification**

Well

Well Head

Water Tower

Base of the Tank

Standpipe

Standpipe Base

Ground Storage Tanks

Storage Tank Base

Raw Water Intake Structure

Intake Structure

Water Treatment Facility

Intake Structure

Booster Pumping Station

Intake Structure

Water Main Break

Point of Break

## Appendix T

### NOTICE OF VIOLATION ABATEMENT GUIDELINES

1. Discharging Acid Water. The operator should treat the water in the poing and , if necessary, treat water prior to entering the pond. The reclamation and mining plan should be followed. One week given to abate the violation. Also, the abatement should require immediate stoppage of the acid discharge.
2. Failure to Maintain Diversions. The operator should repair, seed, and mulch the diversion and clean, as necessary, according to the plan. One week given to repair diversion.
3. Failure to Maintain Pond. The operator should repair, as necessary. One week for repair; two weeks to clean pond.
4. Construct Pond. The operator should submit design, if not designed, in one week' then build within two weeks. If designs submitted, build within two weeks.
5. Construct Diverions. Build, seed, and mulch within ten days.
6. Failure to Salvage Topsoil. Start removing topsoil immediately, if pit is advancing through areas where topsoil not removed. If topsoil not removed, but driven over, or compacted, then remove within seven days. If topsoil not too damaged, then topsoil could be disced, seeded, and mulched within seven days. If necessary, the abatement should include acquisition of a substitute material.
7. High Suspended Solid Discharge. Determine what is causing heavy sedimentation and giver amount of time necessary to bring discharge within NPDES limits.
8. Signs and Markers. Place necessary signs or markers in place within seven days.
9. Failure to Report NPDES Discharge. Submit NPDES reports from past within seven days and immediately start submitting them in future.
10. Failure to Perform NPDES Monitoring. Immediately start monitoring and submit reports at regular assigned intervals.
11. Failure to Obtain an NPDES Permit. Contact Water Pollution Control Program immediately to start procedure to obtain and NPDES permit.
12. Off Permitted Area. If no permit, contact office immediately to start procedure to obtain a permit. Then, meet all applicable dates. Permit should be filed within four weeks. Operator should also cease operations immediately. If area approved for permitting, but not bonded, the bond should be submitted within seven days. If the area is a small area, then the operator could be given the option of repairing the area within seven days.

13. Failure to Pass Through a Pond. If pond needed, then follow number 4. If diversion needed, follow number 5. If both a pond and diversion needed, then submit designs with seven days and build within two weeks of approval. If plans are approved already, build within two weeks.
14. Violation of Buffer Zone. Cease operation in buffer zone immediately. Repair within one to three weeks, depending on size of area disturbed. If a pit, it should be backfilled. If no variance, then it is possible that the best route would be for a variance to be requested within seven days.
15. Failure to Bury Acid Material. Burial should commence within five days and be finished within one to three weeks, depending on amount to be buried.
16. Illegal Stream Crossing. Immediately cease use of crossing. Repair any damage to stream with ten days. Such things as pulling sediment out of stream, grading, seeding the approaches, and building of berms to block the road can be requested. If crossing needed, then they should submit designs for a proper crossing. However, this should not be dealt with in the abatement of the violation.
17. Failure to Maintain Haul Road. Haul road should be repaired, seeded, or whatever within seven to ten days.
18. Sediment Off Permit. Necessary steps should be taken. If pond needs to be cleaned, then follow number 3. If diversion needs repair, follow number 2. If no pond, follow number 4; and no diversion, follow number 5. If no pond or diversion, follow number 13.
19. Blasting Unsafely. Assumed that operator is not following their approved plan. Operator should immediately start following their approved plan.
20. Blasting Without Approved Plan. Operator should cease blasting immediately. Operator should file an addendum to their plan for blasting within ten days, if blasting is to continue at the sites. Blasting should not be allowed until plan is approved.
21. Delinquent Reclamation . Complete grading within whatever number of days necessary up to 90 days.